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INDEPENDENT

MEMORANDUM

To: Members of the Subcommittee on National Security, Emerging
Threats, and International Relations.

From: Christopher Shays 
Chairman

Date: March 2, 2006

Subject: Briefing memo for March 7, 2006 Subcommittee hearing.

Attached find the briefing memo required by Committee rules for the hearing on *International Maritime Security II: Law Enforcement, Passenger Security and Incident Investigation on Cruise Ships*, scheduled for Tuesday, March 7, 2006 at 2:00 p.m., room 2154 Rayburn House Office Building in Washington, D.C.

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SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND INTERNATIONAL RELATIONS

Christopher Shays, Connecticut
Chairman

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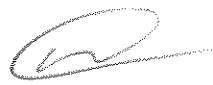
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March 2, 2006

MEMORANDUM

To: Members of the Subcommittees on National Security, Emerging
Threats and International Relations.

From: Dr. R. Nicholas Palarino, Senior Policy Analyst. 

Subject: Briefing memorandum for the hearing, *International Maritime
Security II: Law Enforcement, Passenger Security and Incident
Investigation on Cruise Ships*, scheduled for Tuesday, March 7, 2006
at 2:00 p.m., room 2154 Rayburn House Office Building in
Washington, D.C.

PURPOSE OF THE HEARING

The purpose of the hearing is to examine the effectiveness of current regimes governing international maritime security, including law enforcement, passenger security and incident investigation aboard cruise ships.

HEARING ISSUE

- 1. To what extent does the current regime of laws, treaties, regulations and commercial practices governing international maritime security aboard cruise ships protect the lives, rights and property of passengers?**

BACKGROUND

The modern day cruise industry is a relatively recent phenomenon. It began in the 1950s when air transportation between the North America and Europe caused the passenger shipping industry to find different uses for their vessels. Shipping lines took advantage of the public's desire for exotic travel and exploration, refitted their vessels for leisure cruising and repositioned them to warmer climates and exotic ports of call. **(Web Resource 1)**

During the 1960s and 1970s the industry began offering shorter and more moderately priced Caribbean cruises from home ports in south Florida, such as the Port of Miami. Companies such as Carnival and Royal Caribbean Cruise Lines were created and competed against each other to establish their ships as the largest and most modern vessels afloat. **(Web Resource 1)**

As cruise vacations became more popular, company profits grew and cruise ship capacity increased. During the 1970s the largest cruise ship carried 800 passengers. By the 1980s ship capacity increased to over 2000 passengers. Today, Royal Caribbean is building a cruise ship that will accommodate over 5000 passengers. **(Web Resource 1)**

The cruise industry is a world-wide market and has ports of embarkation and debarkation all over the world. For North America, the Caribbean accounts for most of the industry market share and Florida ports, including Miami, Port Everglades, Tampa, Port Canaveral and Jacksonville, are host to the major cruise lines embarking and debarking operations for the region. **(Attachment 1)**

Within the North American market, Seward, Alaska has the second largest passenger volume and is a major turn-around port. The remainder of the North American cruise market is spread among the Northeast and New England regions, including New York, Boston, and Philadelphia, and the U.S. West Coast, including the California cities of Los Angeles and Long Beach. **(Attachment 1)**

Cruise passenger numbers have increased proportionately to the public's desire to visit warm and exotic ports. During 1999, the cruise industry carried almost 9 million passengers with North American cruise passenger numbers reaching 6.5 million. Over the past three years (January 2003 through December 2005), the cruise lines worldwide carried over 30 million passengers, with approximately 25 million of those passengers embarking from North America ports. The vast majority of the North American passengers were U.S. citizens. **(Web Resource 1 and Attachment 1)**

Mr. Chris Swecker, Assistant Director, Criminal Investigation Division, Federal Bureau of Investigation (FBI), testified at a December 13, 2005 Subcommittee hearing on international maritime security, "... approximately 10 million Americans are expected to travel abroad this year [2005] on vessels that navigate international waters. As a matter of course, some of them will become victims of a crime." **(Web Resource 2)**

Mr. Swecker said that over the last 5 years (2001-2005) the FBI opened 305 cases of crime on the high seas. Sexual and physical assaults on cruise ships were the leading maritime crimes reported to, and investigated by, the FBI, at 45 and 22 percent, respectively. Missing persons cases, Mr. Swecker testified, are more sporadic in nature. In 75 percent of the cases, a body is never found. **(Web Resource 2)**

During that same hearing Mr. Swecker, responding to a question about reporting crimes aboard cruise ships, said, "We know all the crimes [aboard cruise ships]

aren't being reported, so I think a requirement that you [cruise lines] report crimes either to the FBI or to the Coast Guard or both would be a start."

(Web Resource 2)

In order to examine the scope of crimes on board cruise ships, two Subcommittees¹ requested information concerning the number of sexual assault, missing persons and robberies (valuing above \$5000) occurring over a three year period. The corporations contacted responded with the requested information and most asked the data be considered proprietary.² The following is an aggregation of that data:

The cruise line corporations stated they received 177 reports of alleged Unlawful Sexual Acts/Sexual Contact³ over the three year reporting period. Forty seven of those reports involved crew on crew complaints. Twenty-two of the reports resulted in arrests. The corporations stated that ten of the complaints were not reported to any authorities because 1) some of the claimants were unable to identify their assailant, 2) in some cases the cruise line was notified after disembarkation and the claimant reported the assault to authorities on their own, and 3) some claimants, after further discussion with the ship's personnel were satisfied with the actions taken by the cruise line.

The corporations also reported there were 28 missing persons during the reporting period. Four of those missing persons were crew members. After each report of a missing person appropriate law enforcement or government officials were notified. Five of the 28 persons reported missing were recovered or found.

The corporations reported there were four robberies (valued above \$5000) that occurred on board their ships over the past three years. The appropriate authorities were notified after each of those incidents.

¹ The House Subcommittees on National Security, Emerging Threats, and International Relations and Criminal Justice, Drug Policy and Human Resources, Committee on Government Reform, U.S. House of Representatives.

² Information is on file at the Subcommittee on National Security, Emerging Threats and International Relations and is being treated as proprietary business information.

³ Most cruise lines used the applicable federal statutes to define sexual assaults/contact, using 18 USC Secs. 2241, 2242 and 2243, and unlawful sexual acts being incidents involving actual or attempted penetration of any kind or actual or attempted oral copulation, and sexual contact being defined as touching of an intimate body part with intent and is also considered a sexual assault where it involves a minor, or is accompanied by force or is performed on someone who is incapacitated.

At the December 13, 2005 hearing Mr. Swecker also testified, “The FBI’s ability to assist our fellow Americans who may fall victim to crime in international waters will be affected by a variety of factors, including the type of crime that was committed, where the ship departed, where it arrives, and under which nation’s laws the ship is registered, the nationality of the subject or victim, the laws of other countries, international law, and the United States relationship with other affected countries.” **(Web Resource 2)**

A number of international treaties and domestic laws govern freedom of the seas and protection of individuals traveling aboard ships. The United Nations Convention on Law of the Sea (UNCLOS), also called the Law of the Sea (LOS), is a series of agreements designed to allow freedom of the seas and establishment of a country’s maritime boundaries. The United States is not a party to the Convention but recognizes most of the treaty provisions as customary international law. **(Attachment 2)**

The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation entered into force in March 1992, and requires appropriate action be taken by signatories against persons committing unlawful acts against ships. Unlawful acts include the seizure of ships by force, acts of violence against persons on board ships and the placing of devices on board a ship which are likely to destroy or damage the vessel. **(Attachment 3)**

The International Ship and Port Facility Security Code (ISPS) is an amendment to the Safety of Lives at Sea Convention (SOLAS). SOLAS is an agreement which protects merchant ships and allows amendments designed to enhance security of such vessels. The ISPS objective is to assist in detection of security threats and implement security measures by assigning responsibilities to governments and local administrations, ships and port industries. **(Attachment 4)**

The United Nations Convention against Transnational Organized Crime and accompanying Protocols allow increased cooperation among law enforcement officials for a number of law enforcement areas including the elimination of the time consuming process of negotiating bilateral agreements for extradition of individuals. **(Attachment 5)**

There are a host of United States laws implementing the provisions of the international treaties and agreements including violence against maritime navigation, maritime and territorial jurisdiction, attacks on vessels and penalties for crimes. **(Attachment 6)**

The crimes include;

arson	18 USC Sec. 81,
assault	18 USC Sec. 13,
maiming	18 USC Sec. 114,
murder	18 USC Sec. 1111,
homicide	18 USC Sec. 1112,
kidnapping	18 USC Sec. 1201,
sexual assault, rape	18 USC Sec. 2241, and
robbery and burglary	18 USC Sec. 2111. (Attachment 6)

18 USC Sec. 7(7) establishes the special maritime and territorial jurisdiction of the United States including any place outside the jurisdiction of any nation when the offense is committed by or against a national of the United States. Pursuant to 18 USC Sec. 7(1) there is also jurisdiction over such offenses when they are committed on the high seas or any other waters within the admiralty and maritime jurisdiction of the United States.

These compilations of laws allow U.S. agency involvement when an incident involves a national of the United States. The FBI and Coast Guard have the authority to investigate and refer for prosecution alleged crimes in international waters involving U.S. citizens.

The International Maritime Organization (IMO) Measure to Prevent Unlawful Acts Against Passengers and Crews on Board Ships requires that the operator of a vessel report to the IMO each breach of security, unlawful act, or threat of an unlawful act against the vessel or persons aboard. **(Attachment 3)** However, there is no U.S. law or statutory requirement for operators of foreign flagged cruise ship to report crimes committed outside the jurisdiction (international waters or jurisdictional waters of another country) of the United States. **(Web Resource 2)**

At the December 13 hearing, Mr. Charles E. Mandigo, Director, Fleet Security, Holland America Line, Inc. stated,

“Generally, upon notification that a crime has occurred on board the vessel, ship security personnel respond to the incident and conduct an investigation. If the investigation concludes that a serious crime has occurred or has been alleged, and it involved a U.S. citizen, then a report would be made to the [U.S.] Coast Guard, Federal Bureau of Investigation, or other federal, state or local agency, as appropriate. In many cases, depending on the circumstances, the crime scene will be sealed off in order to facilitate an investigation by appropriate governmental authorities.” **(Web Resource 2)**

After 9/11, cruise lines implemented increased security measures. Those measures include:

- Screening of all passenger baggage, carry-on luggage, ship stores and cargo; intensified screening of passenger lists and passenger identification; close coordination with the Department of Homeland Security and other federal agencies to ensure that any passengers or crew suspected of being on the watch lists are promptly reported to the federal authorities.
- Restricting access to any sensitive vessel areas, such as the bridge and the engine room.
- Implementing onboard security measures to deter unauthorized entry and illegal activity.
- Requiring all commercial vessels to give 96 hours notice before entering U.S. ports. Previously, ships had to give 24 hours' notice.
- Maintaining a 100-yard security zone around cruise ships. **(Attachment 8)**

Security onboard varies from line to line and ship to ship. Some cruise lines hire former military and naval personnel to implement and oversee their security, while others hire private security firms or former law enforcement officers. **(Attachment 8)**

Some lines have dedicated security personnel whose primary job is to assess the risk potential and work with onboard crew to make sure proper procedures are followed. Each port is reviewed for its history of security-related incidents, stowaway threat, contraband threat, shore-side security operations and equipment, and so on. **(Attachment 8)**

Ship staff are trained to recognize and deal with things like a crew member being in an unauthorized area, an unfamiliar face in a crew area, a passenger in an off-limits area, or a bag being found somewhere it is not supposed to be.
(Attachment 8)

Additionally there are surveillance cameras onboard some ships. Security personnel, officers, staff and crew can visually monitor many areas of the ship. There are cameras in the embarkation areas; corridors; public rooms; entry points to the "out of bounds" areas for passengers such as crew areas; machinery spaces; and even common deck areas such as the promenade and pool areas.
(Attachment 8)

WITNESSES

Panel I witnesses include victims and victim's families of cruise ship incidents involving missing persons, sexual assaults and robbery/burglary. They were asked to describe their experiences with the cruise line industry and provide recommendations on passenger security and incident investigations.

Panel II witnesses, experts on cruise line operations and security, and Panel III witnesses, representatives of the cruise line industry were asked:

- What United States and international laws govern passenger security on board cruise lines?
- Who is the official responsible for enforcing such laws on board a cruise ship?

- What type of security measures, both trained personnel and equipment, are on board cruise lines to ensure passenger safety?
- If a crime occurs on board a cruise ship, who investigates the crime and what are their training and qualifications?
- How are jurisdictional issues handled on board foreign flagged vessels?

DISCUSSION OF HEARING ISSUES

- 1. To what extent does the current regime of laws, treaties, regulations and commercial practices governing international maritime security aboard cruise ships protect the lives, rights and property of passengers?**

Michael Crye, president of the International Council of Cruise Lines, which represents most major cruise lines said, "I believe that there is a very complex, overarching regulation of the cruise ship industry today, dependent upon the jurisdiction where the ships are located. Perceived ideas that the cruise industry is loosely regulated and that lawmakers need to do something about it would not survive an objective look at the cruise industry today." (**Attachment 7**)

But an objective look at the laws governing the cruise industry finds 1) cruise ships typically operate under flags of jurisdiction that range from the Bahamas to countries in Africa and other destinations around the world, and 2) regulation of the cruise operations in the United States is governed primarily by complex sets of laws with no firm consistently defined requirement to report crimes against U.S. citizens when a foreign flagged vessel is in international waters.

Issues of jurisdiction affect how cruise line security personnel investigate crimes that occur at sea. A crime can occur among two people of different nationalities on a ship from a third country that is sailing in the territorial waters of a fourth. It appears cruise ships have been reporting serious crimes to the Federal Bureau of

Investigation (FBI) or the U.S. Coast Guard when U.S. passengers are involved. But the FBI or Coast Guard may not be in a position to investigate because the ship is in another country.

It also appears that when cruise ships are in the waters of a foreign country, crimes are also reported to the officials of that nation and to the embassies of the parties involved. The laws of the country whose flag the ship flies do not come into play with regard to criminal issues unless the ship is actually in that country's waters at the time of the incident, but they do come under international law if the country is a signatory to international maritime agreements.

However, reporting does not mean that anything can be done. International maritime law is not as established as U.S. law, and some cases do not result in convictions because of jurisdictional issues, or cases are dropped by the claimants. It is apparent certain issues about cruise line travel should be highlighted to passengers. Primarily, American passengers should be aware that even though they board a ship in a U.S. port it does not necessarily mean they are fully protected by the United States justice system.

Cruise lines state cruise ships are inherently secure because they are controlled environments with limited access. Every person onboard a cruise ship, from the captain to the cleaning staff and all guests, are placed on an official manifest. Passengers and crew may embark or disembark only after passing through a security checkpoint. Once the ship is in a port access is strictly limited to documented employees and fare-paying passengers. **(Attachment 8)**

Cruise lines carrying American citizens instruct the captain and the security manager on each ship of jurisdictional issues and give detailed instructions on whom to contact in case of criminal activity. For example, when American citizens are involved, cruise line security representatives are instructed to contact the FBI when in international waters and the state or local police when in U.S. waters. **(Web Resource 2)**

Cruise lines state they have procedures to deal with passengers reported missing. In general, if a guest does not respond to intercom pages and cannot be located by other passengers, a ship-wide search is conducted. If the passenger is still not located the U.S. Coast Guard is notified and the cruise ship will trace the passenger's last known whereabouts, and the time the passenger was at this

location. The ship can then determine the location of the ship in relation to the passenger's last known whereabouts and transmit this information to the U.S. Coast Guard or to the appropriate vessels conducting a search for the missing passenger. **(Web Resource 2)**

Cruise lines also state they have enough security personnel on board ship to handle security and crime. If a crime is committed ship personnel are instructed to lock down the scene until qualified authorities come aboard to investigate. **(Web Resource 2)**

However, the passenger to security personnel ratio is not publicized for security reasons. Additionally, based on previous publicized crimes on board cruise ships, there are questions concerning the crew's investigative credentials. Cruise lines should be able to inform the public the ratio of security personnel to passengers, the type of training security personnel have, and what if any investigative procedures are established in the event of a crime.

WITNESSES

Panel I

Mr. Kendall Carver
Phoenix, Arizona

Mr. Son Michael Pham
Bellvue, Washington

Ms. Deborah Shaffer
Tucson, AZ

Ms. Janet Kelly
Cottonwood, Arizona

Mr. Ira Leonard
Hamden, CT

Mr. Brian Mulvaney
Miami, FL

Panel II

Mr. Brett Rivkind
Rivkind, Pedraza & Margulies, P.A.

Mr. Ron Gorsline
Owner
Secure Ocean Service, LLC

Mr. Lawrence W. Kaye
Kaye Rose & Partners, LLP

Panel III

Mr. Charley Mandigo
Director, Fleet Security
Holland America Lines

Captain William S. Wright
Senior Vice President
Marine Operations
Royal Caribbean International

accompanied by

Dr. James Fox
Northeastern University
The Lipman Family Professor of Criminal Justice

ATTACHMENTS

1. International Council of Cruise Lines, "The Cruise Industry 2004 Economic Summary."
2. Wikipedia, "United Nations Convention on the Law of the Sea."
3. International Maritime Organization, "Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988".
4. International Maritime Organization, "International Ship and Port Facility Security Code", summary.
5. International Maritime Organization, "The United Nations Convention against Transnational Organized Crime and its Protocols", summary.
6. United States Codes Relating to International Maritime Security List provided by the US Coast Guard.
7. Dan Luzadder, "Passenger disappearance leads to scrutiny in cruise industry," *Travel Weekly*, February 21, 2006.
8. Tim Rubacky, "How Safe are We at Sea?," Cruisemates.

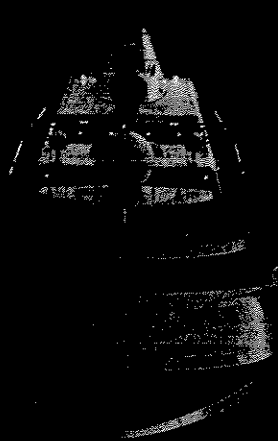
WEB RESOURCES

1. Mayflower Ocean Lines, available from http://www.mayfloweroceanlines.com/maritime_her.htm; Internet; accessed February 27, 2006.
2. U.S. House of Representatives, Committee on Government Reform, Subcommittee on National Security, Emerging Threats and International Relations, December 13, 2005 hearing, International Maritime Security; available from

Attachment 1

THE CRUISE INDUSTRY

2004 Economic Summary



A \$30 Billion Partner in North America's Economic Growth



INTERNATIONAL COUNCIL
OF CRUISE LINES

2004 CRUISE INDUSTRY GENERAL ECONOMIC OVERVIEW

The North American cruise industry generated more than \$30 billion to the U.S. economy, an increase of 18 percent from the previous year, through direct and indirect spending by the cruise lines, their passengers and crewmembers. These expenditures generated employment, income and other economic benefits throughout the U.S. economy. U.S.-based businesses are the primary beneficiary of the cruise industry's global economic impact, accounting for more than 75 percent of the North American cruise industry's expenditures.

In 2004, the North American cruise industry had its strongest year in passenger and revenue growth since the events of Sept. 11, 2001, increasing in both areas at double-digit rates over the previous year. Worldwide, the industry carried 10.85 million passengers, an increase of nearly 10 percent.

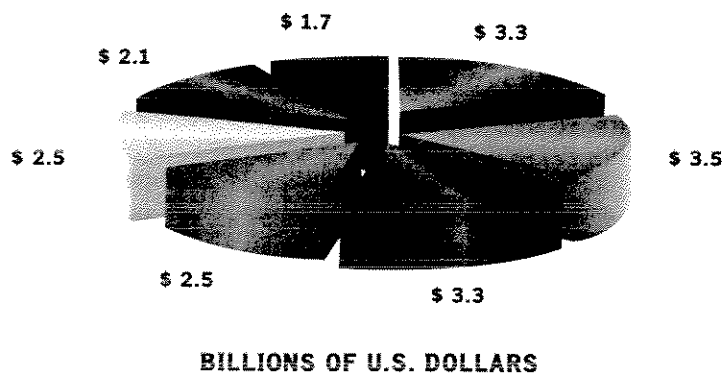
The strength of the industry also benefited U.S. ports through the increase in cruise passengers and continued trend of homeporting – cruises leaving from port cities within driving distance of a large section of population. U.S. ports handled 8.1 million cruise embarkations and U.S. residents accounted for 77 percent of the global cruise passengers. Additional ports began offering cruise vacations in 2004, smaller and mid-sized ports experienced significant growth and NCL America started its U.S.-flagged operation sailing inter-island Hawaii cruises, pushing Hawaii into the top ten states benefiting from cruise industry spending.

BENEFITS OF THE NORTH AMERICAN CRUISE INDUSTRY TO THE U.S. ECONOMY IN 2004

Total economic benefit of the cruise industry in the United States	\$30.06 billion
Direct spending of the cruise lines and passengers on U.S. goods and services	\$14.7 billion
Total jobs generated by these expenditures	315,830
Total wages generated for U.S. employees	\$12.4 billion

INDUSTRIES MOST BENEFITED BY CRUISE INDUSTRY SPENDING

These total economic impacts affect nearly every industry in the United States. Approximately half of the \$30 billion in total gross output generated by the direct and indirect impacts of the cruise industry benefited seven industry groups as follows:



- Professional & Technical Services (1)
- Non-Durable Goods Manufacturing
- Travel Services (2)
- Durable Goods Manufacturing
- Financial Services (3)
- Airline Transportation
- Wholesale Trade

(1) Includes such services as legal services, advertising, management consulting, engineering and architectural services and computer consulting services

(2) Includes travel agents, ground transportation services and U.S.-based excursions

(3) Includes banking, investment and insurance services

PASSENGER AND VESSEL GROWTH

As in prior years, the industry was able to increase passenger carryings and its occupancy rate even with significant growth in capacity. During 2004, the North American cruise industry had a net addition of eight cruise ships and nearly 25,000 lower berths (single beds). Occupancy rates remained above 100 percent.

The industry continued to keep up with this increase in ship capacity with a steady increase in passengers. During 2004, the industry carried 10.85 million passengers worldwide. Of these global passengers, 8.3 million, or 77 percent, were U.S. residents.

ECONOMIC IMPACT OF THE NORTH AMERICAN CRUISE INDUSTRY IN THE UNITED STATES

	BILLIONS OF U.S. DOLLARS			ANNUAL PERCENT CHANGE		
	2004	2003	2002	2004	2003	2002
Direct Economic Impacts						
Passenger and Cruise Line Spending*	\$14.70	\$12.92	\$11.95	13.8%	8.1%	8.8%
Employment	135,197	117,353	109,553	15.2%	7.1%	7.8%
Wages and Salaries	\$4.80	\$4.29	\$3.92	11.9%	9.6%	11.9%
Total Economic Impacts						
Total Output	\$30.06	\$25.44	\$20.40	18.2%	24.7%	9.7%
Employment	315,830	295,077	279,112	7.0%	5.7%	4.2%
Wages and Salaries	\$12.42	\$11.62	\$10.66	6.9%	9.0%	9.7%

* Includes wages and salaries paid to U.S. employees of the cruise lines.

OPERATING STATISTICS OF THE NORTH AMERICAN CRUISE INDUSTRY IN THE UNITED STATES

				ANNUAL PERCENT CHANGE		
	2004	2003	2002	2004	2003	2002
Capacity Measures						
Number of Ships	192	184	176	4.3%	4.5%	5.4%
Lower Berths	240,401	215,405	196,694	11.6%	9.5%	13.1%
Carryings (Millions)						
Global Passengers	10.85	9.83	9.22	10.3%	6.6%	9.8%
Passengers Residing in U.S.	8.31	7.48	6.99	11.1%	7.0%	12.7%
U.S. Embarkations	8.10	7.11	6.50	13.9%	9.4%	10.2%
Industry Spending in U.S. (\$ Billions)	\$13.58	\$11.85	\$10.90	14.6%	8.7%	9.1%
Cruise Lines	\$ 10.70	\$ 9.49	\$ 8.84	12.8%	7.4%	8.6%
Goods and Services	\$ 9.36	\$ 8.46	\$ 7.93	10.6%	6.7%	8.0%
Capital Equipment (incl. net interest)	\$ 1.34	\$ 1.03	\$ 0.91	30.5%	13.2%	13.8%
Passengers and crew	\$ 2.88	\$ 2.36	\$ 2.06	22.1%	14.6%	11.4%
Wages & Taxes Paid by Cruise Lines	\$ 1.12	\$ 1.07	\$ 1.05	4.3%	1.9%	6.1%
Total U.S.-based Spending	\$14.70	\$12.92	\$11.95	13.8%	8.1%	8.8%

U.S. PORTS GROW WITH CRUISE DEMAND

Embarkations at U.S. ports have steadily increased since 2001 with the industry's increase in passengers and continued trend of deploying cruise ships to ports with strong drive-to markets, thereby eliminating passengers' need to fly to take a cruise vacation. In 2004, cruise passenger embarkations at U.S. ports increased by nearly 14 percent with 8.1 million embarkations during 2004. U.S. ports handled 75 percent of the cruise industry's global embarkations.

EMBARKATIONS OF NORTH AMERICAN CRUISE INDUSTRY BY PORT* AND REGION OF THE WORLD

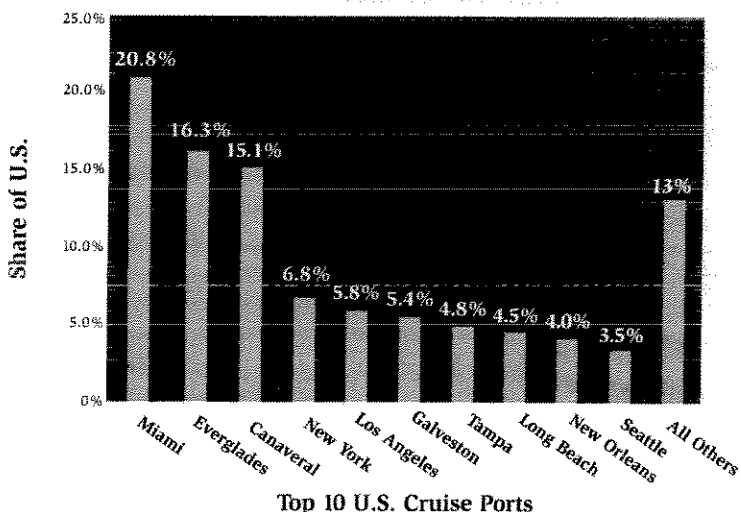
PASSENGERS		
	2004	2003
United States	8,100,000	7,113,000
Florida	4,724,000	4,676,000
Miami	1,682,000	1,965,000
Port Everglades	1,324,000	1,213,000
Port Canaveral	1,220,000	1,089,000
Tampa	385,000	409,000
Jacksonville	113,000	N/A
California	1,095,000	807,000
Los Angeles	470,000	403,000
Long Beach	367,000	272,000
San Diego	173,000	81,000
San Francisco	85,000	51,000
New York	547,000	438,000
Other U.S. Ports	1,734,000	1,192,000
Baltimore	105,000	57,000
Boston	100,000	69,000
Galveston	435,000	377,000
Houston	83,000	15,000
New Orleans	327,000	288,000
Philadelphia	29,000	24,000
Seattle	285,000	158,000
Seward	163,000	147,000
All Other U.S. Ports	207,000	57,000
Canada	454,000	482,000
Vancouver	436,000	464,000
Other Canada Ports	18,000	18,000
San Juan	450,000	325,000
North America	9,004,000	7,920,000
Rest of the World	1,846,000	1,910,000
Total	10,850,000	9,830,000

*All estimated cruise embarkations have been rounded to the nearest thousand.

- Florida remains the center of cruising in the United States, accounting for 4.7 million passengers and 58 percent of all U.S. embarkations.
- California's four cruise ports boarded approximately 1.1 million passengers, or 13 percent of all U.S. cruise embarkations.
- The Port of New York remained the nation's fourth busiest cruise port behind the major Florida ports and increased its embarkations by 25 percent in 2004.
- Additional ports offering cruises were in Jacksonville, Bayonne, NJ (Cape Liberty) and Mobile in 2004, while some of the mid-sized and smaller ports including San Diego and Houston saw the greatest increase in cruise embarkations.

U.S. MARKET SHARE BY EMBARKATIONS OF MAJOR PORTS

The top ten ports accounted for 87 percent of all U.S. embarkations.



On average, a 2,000-passenger ship with 950 crew members generates approximately \$245,000 in onshore spending in a U.S. homeport city. The average passenger spends approximately \$100 per homeport and U.S. port-of-call visit.

2004 ECONOMIC IMPACT OF THE NORTH AMERICAN CRUISE INDUSTRY BY STATE

The North American cruise industry benefited every state economy through \$14.7 billion in direct purchases for goods and services for cruise operations. This direct spending in turn generated a total of \$30 billion in economic spending and 315,830 jobs paying \$12.4 billion in wages. States benefit from cruise line purchases that include air transportation, food and beverages, ship maintenance and refurbishment, engineering and travel agent commissions. The greatest economic impacts were concentrated in ten states that accounted for 81 percent of the total U.S. impacts: Florida, California, New York, Alaska, Texas, Washington, Georgia, Illinois, Colorado and Hawaii.

STATE	DIRECT PURCHASES (\$ MILLIONS)	TOTAL EMPLOYMENT	TOTAL INCOME (\$ MILLIONS)
Alabama	\$77	985	\$38
Alaska	\$762	16,940	\$566
Arizona	\$73	1,318	\$49
Arkansas	\$16	275	\$9
California	\$1,492	44,667	\$1,940
Colorado	\$407	4,368	\$213
Connecticut	\$59	674	\$36
Delaware	\$29	213	\$11
Dist. of Columbia	\$7	99	\$7
Florida	\$5,157	129,099	\$4,554
Georgia	\$556	8,390	\$364
Hawaii	\$336	7,569	\$250
Idaho	\$7	116	\$4
Illinois	\$528	8,969	\$405
Indiana	\$173	2,422	\$104
Iowa	\$21	308	\$11
Kansas	\$59	2,595	\$82
Kentucky	\$42	573	\$20
Louisiana	\$208	5,046	\$152
Maine	\$15	293	\$8
Maryland	\$88	1,410	\$61
Massachusetts	\$297	4,120	\$228
Michigan	\$121	1,769	\$84
Minnesota	\$70	1,685	\$78
Mississippi	\$24	407	\$12
Missouri	\$62	1,056	\$43
Montana	\$3	49	\$1
Nebraska	\$44	462	\$25
Nevada	\$46	513	\$19
New Hampshire	\$28	428	\$16
New Jersey	\$231	3,435	\$172
New Mexico	\$12	199	\$6
New York	\$1,364	21,321	\$1,042
North Carolina	\$189	2,452	\$97
North Dakota	\$3	45	\$1
Ohio	\$146	2,202	\$91
Oklahoma	\$19	359	\$12
Oregon	\$55	726	\$30
Pennsylvania	\$286	4,887	\$207
Rhode Island	\$19	303	\$11
South Carolina	\$36	691	\$23
South Dakota	\$6	74	\$2
Tennessee	\$53	775	\$31
Texas	\$709	13,817	\$578
Utah	\$24	385	\$14
Vermont	\$10	118	\$5
Virginia	\$128	2,179	\$104
Washington	\$562	14,312	\$580
West Virginia	\$6	110	\$3
Wisconsin	\$39	600	\$23
Wyoming	\$2	22	\$1
U. S. Total	\$14,700	315,830	12,423

STUDY DETAILS

This analysis, conducted by Business Research and Economic Advisors (BREA), expands on a previous study from 2003. BREA gathered and analyzed data from a broad spectrum of the cruise industry, including all of the major cruise lines. The data has been aggregated and adjusted to develop industry-wide estimates of revenues and expenses. Additionally, BREA used its industry and macroeconomic models to trace the impact of cruise line spending on U.S. output and jobs by industry and used U.S. government impact factors to determine the state analysis.

The analysis provides a detailed outline of the study's conclusions regarding the cruise industry's revenues and expenditures in 2004. The full report may be viewed on the ICCL Web site at www.iccl.org.

ICCL MEMBER LINES

Carnival Cruise Lines • Celebrity Cruises • Costa Cruise Lines N.V. • Crystal Cruises
Cunard Line • Disney Cruise Line • Holland America Line • NCL America
Norwegian Cruise Line • Orient Lines • Princess Cruises
Radisson Seven Seas Cruises • Royal Caribbean International • Seabourn Cruise Line
Silversea Cruises • Windstar Cruises

ASSOCIATE MEMBERS

3M Marine • AFM, Inc. • Amadeus North America LLC • American Bureau of Shipping (ABS)
American Detection Technologies, Inc. (AMDETECH) • American Guard Services Inc. • American International Group, Inc.
Ameron International • AMSEC LLC • Atlantic Marine, Inc. • Bellegrove Medical Supply • The Berkely Group
Board of Commissioners of the Port of New Orleans • British Maritime Technology Ltd. (BMT)
Business Research & Economic Advisors (BREA) • Campbell & Malafy • Canaveral Port Authority
Cargill Food Distribution Co. • Chamber of Commerce and Industry of South Corsica (CCIACS) • Cliff Berry, Incorporated
The Coca-Cola Company • Deerberg-Systems GmbH • Eastman Kodak Company • Ecolab Inc. • Faribault Mills, Inc.
Fincantieri-Cantieri Navali Italiani S.p.A. • Freeport Harbour Company • Fuji Photo Film U.S.A., Inc.
Gard • Halifax Port Authority • Hamann AG • Hamworthy Wastewater Systems Limited • Hill, Betts & Nash LLP
HOBART Global Marine/Gaylord Industries, Inc. • Houck, Hamilton & Anderson, P.A. • Hydroxyl Systems Inc.
Image • International Paint Inc. • Jos. L. Meyer GmbH • Jotun Paints, Inc. • Kaye, Rose & Partners, LLP
Konica Minolta Photo Imaging U.S.A., Inc. • Lloyd's Register North America, Inc. • Luggage Concierge Inc.
Maine Port Authority • Maltzman Foreman, PA • Marine Environmental Partners, Inc. • Maritime Telecommunications Network, Inc.
Marseille-Provence Cruise Club • Maryland Port Administration • Mase, Gassenheimer & Lara, P.A. • Massachusetts Port Authority
McRoberts Maritime Security, Inc. • Metro Cruise Services LLC • MHG Services, Inc. • Michael Stapleton Associates
New York City Economic Development Corp. • On-Board Movies • Orion Seafood International, Inc. • P&O Ports North America
Port Everglades • Port of Galveston • Port of Houston Authority • The Port of Los Angeles • Port of Miami
The Port of Philadelphia and Camden, a DRPA of PA & NJ • Port of San Diego • Port of Seattle
Progressive Specialty Glass Company • Québec Port Authority • RINA S.P.A. • Rodriguez, Aronson & Essington, P.A.
Scotsman Ice Systems Europe - Frimont S.p.A. • SeaKing Inc. • Seatrade Cruise Shipping Convention/CMP Princeton Inc.
SGS Environmental • SPG Media Ltd. • Steamship Insurance Management Services Limited (SIMSL)
Tampa Port Authority • Teakdecking Systems • Thomas Gregor Associates, Inc. • Thordon Bearings Inc.
Tropical Shipping • Unitor Ships Service Inc. • Vickers Oils • VingCard Marine • Vitality Foodservice, Inc.
Wärtsilä • ZENON Environmental Inc.



INTERNATIONAL COUNCIL
OF CRUISE LINES

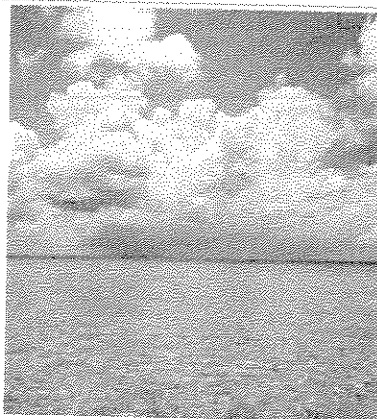
International Council of Cruise Lines
2111 Wilson Boulevard, 8th Floor
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703-522-8463 Fax: 703-522-3811
www.iccl.org
info@iccl.org

Attachment 2

United Nations Convention on the Law of the Sea

From Wikipedia, the free encyclopedia.

The term **United Nations Convention on Law of the Sea** (UNCLOS, also called simply the **Law of the Sea** or **LOS**) refers to several



United Nations Convention on the Law of the Sea

Opened for signature	??? at ???
Entered into force	November 16, 1994[1] (http://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.htm)
Conditions for entry into force	60 ratifications
Parties	149[2] (http://www.un.org/Depts/los/reference_files/chronological_lists_of_ratifications.htm#The%20United%20Nations%20Convention%20on%20the%20Law%20of%20the%20Sea)

United Nations events and one treaty. The events the term refers to are the (First) United Nations Convention on Law of the Sea, the Second United Nations Convention on Law of the Sea, and the Third United Nations Convention on Law of the Sea. The treaty resulting from the Third United Nations Convention on Law of the Sea also bears the name United Nations Convention on Law of the Sea and is the most recent major development in international law governing the oceans. The treaty provided new universal legal controls for the management of marine natural resources and the control of pollution. Its Secretariat resides within the United Nations Division for Ocean Affairs and the Law of the Sea.

Contents

- 1 Historical background
- 2 The (First) United Nations Conference on Law of the Sea (UNCLOS I)
- 3 The Second United Nations Conference on Law of the Sea (UNCLOS II)
- 4 The Third United Nations Conference on Law of the Sea (UNCLOS III)
- 5 Criticism
- 6 Signature and ratification
- 7 References
- 8 External links

Historical background

The LOS was needed due to the weakness of the older 'freedom of the seas' concept, dating from the 17th century: national rights were limited to a specified belt of water extending from a nation's coastlines, usually three nautical miles (6 km), from the 'cannon shot' rule. All water beyond national boundaries was considered international waters- free to all nations but belonging to none of them.

Into the 20th century many nations expressed a need to extend national claims: to include mineral resources, to protect fish stocks and to have the means to enforce pollution controls. This was recognized by the League of Nations and a conference was held in 1930 at The Hague, but did not result in any agreements. One nation to undermine the 'freedom of the seas' was the United States, when in 1945 President Truman unilaterally extended his nation's control to cover all the natural resources of their continental shelf. Other nations were quick to emulate the USA. Between 1946 and 1950, Argentina, Chile, Peru and Ecuador all extended their sovereign rights to a 200 nautical mile (370 km) distance - so as to cover their Humboldt Current fishing grounds. Other nations extended their territorial seas to 12 nautical miles (22 km). By 1967 only 25 nations still used the old 3 nautical mile (6 km) limit, 66 nations had set a 12 nautical mile (22 km) territorial limit, and eight had set a 200 nautical mile (370 km) limit.

The (First) United Nations Conference on Law of the Sea (UNCLOS I)

In 1956, the United Nations held its first Conference on the Law of the Sea ("UNCLOS I") at Geneva, Switzerland. UNCLOS I resulted in four treaties concluded in 1958:

- Convention on the Territorial Sea and Contiguous Zone [3] (<http://www.un.org/law/ilc/texts/terrsea.htm>), entry into force: 10 September 1964
- Convention on the Continental Shelf [4] (<http://www.un.org/law/ilc/texts/contsh.htm>), entry into force: 10 June 1964
- Convention on the High Seas [5] (<http://www.un.org/law/ilc/texts/hseas.htm>), entry into force: 30 September 1962
- Convention on Fishing and Conservation of Living Resources of the High Seas [6] (<http://www.un.org/law/ilc/texts/fish.htm>), entry into force: 20 March 1966

Although UNCLOS I was considered a success, it left open the important issue of breadth of territorial waters.

The Second United Nations Conference on Law of the Sea (UNCLOS II)

The United Nations followed this in 1960 with its second Convention on the Law of the Sea ("UNCLOS II"). UNCLOS II did not result in any international agreements.

The Third United Nations Conference on Law of the Sea (UNCLOS III)

The issue of varying claims of territorial waters was raised in the UN in 1967 by Arvid Pardo and in 1973 the *Third United Nations Conference on the Law of the Sea* was convened in New York to write a new treaty

covering the oceans. The convention lasted until 1982 and over 160 nations participated. The convention was conducted under a process of consensus rather than majority vote in an attempt to reduce the possibility of groups of nation-states dominating the negotiations. The convention came into force on November 14, 1994, one year after the sixtieth state, Guyana, signed it.

The convention introduced a number of provisions. The most significant issues covered were setting limits, navigation, archipelagic status and transit regimes, exclusive economic zones (EEZ), continental shelf jurisdiction, deep seabed mining, the exploitation regime, protection of the marine environment, scientific research, and settlement of disputes.

The convention set the limit of territorial waters to 12 nautical miles (22 km), in which area the coastal state is free to set laws, regulate any use, and use any resource. Vessels were given the right of "innocent passage" through any territorial waters, with strategic straits allowing the passage of military craft as "transit passage", in that naval vessels are allowed to maintain postures that would be illegal in territorial waters. Beyond the 12 nautical mile (22 km) limit there was a further 12 nautical mile (22 km) or 24 nautical miles (44 km) from the territorial sea baselines limit, the "contiguous zone", in which area a state could continue to enforce laws regarding activities such as smuggling or illegal immigration.

The exclusive economic zones (EEZ) extended the exploitation rights of coastal nations to 200 nautical miles (370 km) from shore, covering all natural resources. The EEZ were introduced to halt the increasingly heated clashes over fishing rights, although oil was also becoming important. The success of an offshore oil platform in the Gulf of Mexico in 1947 was soon repeated elsewhere in the world, by 1970 it was technically feasible to operate in waters 4000 metres deep.

The convention set the definition of Archipelagic States in Part IV, which also define how the state can draw its territorial borders. A baseline is drawn between the outermost points of the outermost islands. All waters inside this baseline is described as Archipelagic Waters and are included as part of the state's territory. This baseline is also used to chart its territorial waters 12 nautical miles (22 km) from the baseline and EEZ 200 nautical miles (370 km) from the baseline.

Aside from its provisions defining ocean boundaries, the convention establishes general obligations for safeguarding the marine environment and protecting freedom of scientific research on the high seas, and also creates an innovative legal regime for controlling mineral resource exploitation in deep seabed areas beyond national jurisdiction, through an International Seabed Authority.

Landlocked states are given a right of access to and from the sea, without taxation of traffic through transit states.

Criticism

Libertarians criticize the treaty for creating a tragedy of the commons by designating oceanic resources as the "common heritage of mankind" – essentially public property – instead of privatizing the seabed. According to economic theories promoted by the Property and Environment Research Center and other free market environmentalists, privatization would create incentives for preservation by giving owners an economic interest in protecting the long-term value of their property. If long-term tuna fishing rights were auctioned off, for instance, the owner would have an incentive not to overfish, since depleting the population would lessen returns in future years.

Among some conservatives in the United States the treaty is considered antithetical to U.S. national interests. A small group of Republican senators, led by Jim Inhofe of land-locked Oklahoma, has blocked American ratification of the treaty, claiming that it would impinge upon U.S. sovereignty. The Bush administration and the Pentagon favor ratification.

Signature and ratification

Opened for signature - December 10, 1982

Entered into force - November 16, 1994

Parties - (149) Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, The Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei, Bulgaria, Burkina Faso, Burma, Cameroon, Canada, Cape Verde, Chile, People's Republic of China, Comoros, Democratic Republic of the Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Dominica, Egypt, Equatorial Guinea, Estonia, European Union, Fiji, Finland, France, Gabon, The Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kiribati, South Korea, Kuwait, Laos, Latvia, Lebanon, Lithuania, Luxembourg, Macedonia, Madagascar, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Federated States of Micronesia, Monaco, Mongolia, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, São Tomé and Príncipe, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Tanzania, Togo, Tonga, Trinidad and Tobago, Tunisia, Tuvalu, Uganda, Ukraine, United Kingdom, Uruguay, Vanuatu, Vietnam, Yemen, Zambia, Zimbabwe

Countries that have signed, but not yet ratified - (28) Afghanistan, Belarus, Bhutan, Burundi, Cambodia, Central African Republic, Chad, Colombia, Republic of the Congo, Dominican Republic, El Salvador, Ethiopia, Iran, North Korea, Lesotho, Liberia, Libya, Liechtenstein, Malawi, Morocco, Niger, Niue, Rwanda, Swaziland, Switzerland, Thailand, United Arab Emirates

References

External links

- Text of the treaty (http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm)
- List of countries that have ratified Law of the Sea conventions (http://www.un.org/Depts/los/reference_files/chronological_lists_of_ratifications.htm)
- United Nations Division for Ocean Affairs and the Law of the Sea (<http://www.un.org/Depts/los/index.htm>)
- UNEP Shelf Programme, UN organisation set up to assist States in delineating their continental shelf beyond 200 nautical miles (370 km) (<http://www.continentalshelf.org/>)

Retrieved from "http://en.wikipedia.org/wiki/United_Nations_Convention_on_the_Law_of_the_Sea"

Categories: Articles lacking sources | Treaties | Law of the sea

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Attachment 3

Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988

Adoption: 10 March 1988

Entry into force: 1 March 1992

Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 1988

Adoption: 10 March 1988

Entry into force: 1 March 1992

The Protocol extends the requirements of the Convention to fixed platforms such as those engaged in the exploitation of offshore oil and gas.

Introduction

Resolution A.584(14) Measures to prevent unlawful acts

MSC Circular Measures to prevent unlawful acts

Convention aims

Amendment procedure

2005 Protocols

Introduction

Concern about unlawful acts which threaten the safety of ships and the security of their passengers and crews grew during the 1980s, with reports of crews being kidnapped, ships being hi-jacked, deliberately run aground or blown up by explosives. Passengers were threatened and sometimes killed.

In November 1985 the problem was considered by IMO's 14th Assembly and a proposal by the United States that measures to prevent such unlawful acts should be developed by IMO was supported.

Resolution A.584(14)

The Assembly adopted resolution A.584(14) Measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crew which notes "with great concern the danger to passengers and crews resulting from the increasing number of incidents involving piracy, armed robbery and other unlawful acts against or on board ships, including small craft, both at anchor and under way."

The IMO Assembly directed the Maritime Safety Committee to develop, on a priority basis, detailed and practical technical measures, including both shoreside and shipboard measures, to ensure the security of passengers and crews on board ships. The measures were to take into account the work of the International Civil Aviation Organization (ICAO) in the development of standards and recommended practices for airport and aircraft security.

In December 1985 further support came from the United Nations General Assembly which called upon IMO "to study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures."

MSC Circular

The MSC in 1986 issued a Circular (MSC/Circ.443) on Measures to prevent unlawful acts against passengers and crews on board ships - which states that Governments, port authorities, administrations, shipowners, shipmasters and crews should take appropriate measures to prevent unlawful acts which may threaten passengers and crews. The Circular gives guidelines on measures that can be taken - with application to passenger ships engaged on international voyages of 24 hours or more and port facilities which service them.

In November 1986 the Governments of Austria, Egypt and Italy proposed that IMO prepare a convention on the subject of unlawful acts against the safety of maritime navigation 'to provide for a comprehensive suppression of unlawful acts committed against the safety of maritime navigation which endanger innocent human lives, jeopardize the safety of persons and property, seriously affect the operation of maritime services and thus are of grave concern to the international community as a whole.'

Convention aims

The proposal was supported, and in March 1988 a conference was held in Rome which adopted the **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation**.

The main purpose of the convention is to ensure that appropriate action is taken against persons committing unlawful acts against ships. These include the seizure of ships by force; acts of violence against persons on board ships; and the placing of devices on board a ship which are

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likely to destroy or damage it.

The convention obliges Contracting Governments either to extradite or prosecute alleged offenders.

Amendment procedure

IMO may convene a conference of States parties to the Convention for the purpose of revising or amending the convention, at the request of one third or ten States Parties, whichever is the highest.

2005 Protocols

Adoption: 14 October 2005

Entry into force: The amended Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation will enter into force ninety days after the date on which twelve States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General.

The amended Protocol requires ratification from three States which are also party to the SUA Convention but it cannot come into force unless the 2005 SUA Convention is already in force.

Status: see Status of Conventions

Amendments to the Convention for the Suppression of Unlawful Acts (SUA) Against the Safety of Maritime Navigation, 1988 and its related Protocol, were adopted by the Diplomatic Conference on the Revision of the SUA Treaties held from 10 to 14 October 2005. The amendments were adopted in the form of Protocols to the SUA treaties (the 2005 Protocols).

2005 Protocol to the SUA Convention

Among the unlawful acts covered by the SUA Convention in Article 3 are the seizure of ships by force; acts of violence against persons on board ships; and the placing of devices on board a ship which are likely to destroy or damage it.

The 2005 Protocol to the SUA Convention adds a new Article 3bis which states that a person commits an offence within the meaning of the Convention if that person unlawfully and intentionally:

- when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from any act:
 - uses against or on a ship or discharging from a ship any explosive, radioactive material or BCN (biological, chemical, nuclear) weapon in a manner that causes or is likely to cause death or serious injury or damage;
 - discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance, in such quantity or concentration that causes or is likely to cause death or serious injury or damage;
 - uses a ship in a manner that causes death or serious injury or damage;
- transports on board a ship any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, death or serious injury or damage for the purpose of intimidating a population, or compelling a Government or an international organization to do or to abstain from doing any act;
- transports on board a ship any BCN weapon, knowing it to be a BCN weapon;
- any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement; and
- transports on board a ship any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose.

The transportation of nuclear material is not considered an offence if such item or material is transported to or from the territory of, or is otherwise transported under the control of, a State Party to the Treaty on the Non Proliferation of Nuclear Weapons (Subject to conditions).

Under the new instrument, a person commits an offence within the meaning of the Convention if that person unlawfully and intentionally transports another person on board a ship knowing that

the person has committed an act that constitutes an offence under the SUA Convention or an offence set forth in any treaty listed in the Annex. The Annex lists nine such treaties.

The new instrument also makes it an offence to unlawfully and intentionally injure or kill any person in connection with the commission of any of the offences in the Convention; to attempt to commit an offence; to participate as an accomplice; to organize or direct others to commit an offence; or to contribute to the commissioning of an offence.

A new Article requires Parties to take necessary measures to enable a legal entity (this could be a company or organization, for example) to be made liable and to face sanctions when a person responsible for management or control of that legal entity has, in that capacity, committed an offence under the Convention.

Boarding provisions

Article 8 of the SUA Convention covers the responsibilities and roles of the master of the ship, flag State and receiving State in delivering to the authorities of any State Party any person believed to have committed an offence under the Convention, including the furnishing of evidence pertaining to the alleged offence.

A new Article 8bis in the 2005 Protocol covers co-operation and procedures to be followed if a State Party desires to board a ship flying the flag of a State Party when the requesting Party has reasonable grounds to suspect that the ship or a person on board the ship is, has been, or is about to be involved in, the commission of an offence under the Convention.

The authorization and co-operation of the flag State is required before such a boarding. A State Party may notify the IMO Secretary-General that it would allow authorization to board and search a ship flying its flag, its cargo and persons on board if there is no response from the flag State within four hours. A State Party can also notify that it authorizes a requesting Party to board and search the ship, its cargo and persons on board, and to question the persons on board to determine if an offence has been, or is about to be, committed.

The use of force is to be avoided except when necessary to ensure the safety of officials and persons on board, or where the officials are obstructed to the execution of authorized actions.

Article 8bis includes important safeguards when a State Party takes measures against a ship, including boarding. The safeguards include: not endangering the safety of life at sea; ensuring that all persons on board are treated in a manner which preserves human dignity and in keeping with human rights law; taking due account of safety and security of the ship and its cargo; ensuring that measures taken are environmentally sound; and taking reasonable efforts to avoid a ship being unduly detained or delayed.

Extradition

Article 11 covers extradition procedures. A new Article 11bis states that none of the offences should be considered for the purposes of extradition as a political offence. New article 11ter states that the obligation to extradite or afford mutual legal assistance need not apply if the request for extradition is believed to have been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 12 of the Convention requires States Parties to afford one another assistance in connection with criminal proceedings brought in respect of the offences. A new Article 12bis covers the conditions under which a person who is being detained or is serving a sentence in the territory of one State Party may be transferred to another State Party for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences.

Amendment procedure

Amendments to the Articles in the Convention require acceptance by a requisite number of States. However, the Annex, which lists the treaties under which offences can be considered for the purpose of the SUA Convention, has a special amendment procedure.

The treaties listed are:

- 1 Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970
- 2 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971
- 3 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973

- 4 International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979
- 5 Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979
- 6 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988
- 7 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988
- 8 International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997
- 9 International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999

2005 Protocol to the 1988 SUA Protocol

The amendments to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf reflect those in the 2005 Protocol to the SUA Convention.

New article 2bis broadens the range of offences included in the Protocol. A person commits an offence if that person unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act, uses against or on a fixed platform or discharges from a fixed platform any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or discharges from a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substance, in such quantity or concentration, that it causes or is likely to cause death or serious injury or damage; or threatens, with or without a condition, as is provided for under national law, to commit an offence.

New article 2ter includes the offences of unlawfully and intentionally injuring or killing any person in connection with the commission of any of the offences; attempting to commit an offence; participating as an accomplice; organizing or directing others to commit an offence.

See also [Maritime Security](#)

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AGAINST THE SAFETY OF MARITIME NAVIGATION (SUA CONVENTION)

Adopted: 10 March 1988.

Entered into Force: 1 March 1992.

Duration: The Convention does not set any limits on its duration.

Number of Parties: 87 (as of March 2003)

Depository: International Maritime Organization (IMO).

Background: Concern about unlawful acts that threaten the safety of ships and the security of their passengers and crews grew during the 1980s. This concern stemmed from reports of crews being kidnapped, ships being hijacked, deliberately run aground, or blown up by explosives. Due to these developments, especially the 1985 hijacking of the *Achille Lauro*, the UN General Assembly adopted Resolution 40/61 in 1985, urging States to co-operate in contributing to the elimination of causes underlying terrorism and invited the IMO to study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures.

In response to the *Achille Lauro* hijacking, the Governments of Austria, Egypt, and Italy made a proposal in November 1986 that the IMO prepare a convention on the subject of unlawful acts against the safety of maritime navigation.

To supplement their efforts, the Maritime Safety Committee of the IMO issued a circular (MSC/Circ.443) on measures to prevent unlawful acts against passengers and crews on board ships. According to the circular, governments, port authorities, administrators, ship-owners, shipmasters, and crews should take appropriate measures to prevent unlawful acts that may threaten passengers and crews.

The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation was adopted in Rome in 1988

Provisions: The Convention defines "ship" as any type of vessel whatsoever that is not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or other floating craft.

Warships, ships owned or operated by a State when being used as a naval auxiliary or for customs or police purposes, or ships that have been withdrawn from navigation or laid up are not included under the auspices of the Convention.

According to the provisions of the Convention, any person commits an offense if that person unlawfully and intentionally commits, attempts to commit, threatens to commit, or abets the seizure or exercise of control over a ship by force or threat of force or any form of intimidation; or commits any of the following acts if it endangers or is likely to endanger the safe navigation of that ship: an act of violence against a person on board; destroying a ship or damaging a ship or its cargo; placing or causing to be placed on a ship a device or substance likely to destroy the ship or cause damage to the ship or its cargo; destroying or seriously damaging maritime navigational facilities or seriously interfering with their operation; or communicating information he knows to be false. It is also an offense to injure or kill any person in connection with the commission or attempted commission of any of the previous offenses.

The Convention applies if the ship is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States. In all other cases, the Convention also applies when the offender or alleged offender is found in the territory of a State Party other than the State in whose waters the offence occurred.

States Parties are required to make the offenses punishable by appropriate penalties that take into account the grave nature of those offenses.

Measures to establish jurisdiction over the offenses shall be taken when the offense is committed against or on board a ship flying the flag of the State at the time the offense is committed; in the territory of that State, including its territorial sea; by a national of that State; by a stateless person whose habitual residence is in that State; in an attempt to compel that State to do or abstain from doing any act; or when a national

of that State is seized, threatened, injured, or killed during the commission of the offense.

Compliance and Enforcement: Once jurisdiction has been established, States shall take the offender into custody and immediately make a preliminary inquiry into the facts. States Parties are required to either extradite the offender in custody or submit the case for prosecution. States Parties are also required to assist each other in connection with criminal proceedings brought under the Convention. States Parties are also to cooperate in the prevention of offenses by taking all practicable measures to prevent preparations in their respective territories for the commission of those offenses within or outside their territories and by exchanging information in accordance with their national laws.

Reservations and Withdrawal: Under Article 16 paragraph 1, disputes between two or more States concerning the interpretation or application of the Convention will be submitted to arbitration at the request of one of the States if the matter cannot be settled through negotiation. However, at the time of signing, ratification, or accession, a State may make a reservation that it does not consider itself bound by this paragraph, in which case other States Parties shall not be bound to it with respect to any States Party that has made such a declaration.

Under Article 19, the Convention may be denounced by any State Party at any time after the expiry of one year from the date on which the Convention enters into force for that State. Denunciation shall be made by the deposit of an instrument of denunciation with the Secretary-General and will take effect one year, or such a longer period as may be specified in the instrument of denunciation, after the instrument is received by the Secretary-General.

Amendments: A conference for the purpose of revising or amending this Convention may be convened by the IMO. The Secretary-General shall convene such a conference of the States Parties to this Convention at the request of one-third of the States Parties, or 10 States Parties, whichever is the higher figure. Furthermore, any instrument of ratification, acceptance, approval, or accession deposited after the entry into force of an amendment will apply to the Convention as amended.

Developments:

2004: During its 88th session, held from 19 to 23 of April, the IMO Legal Committee continued revising the SUA Convention, taking into consideration other conventions and protocols related to terrorism. Most delegations expressed support for the revision and strengthening of the SUA Convention in order to provide a response to the increasing risks posed to maritime navigation by terrorism. Nevertheless, several delegations drew attention to the need to ensure that the prospective SUA Protocols did not jeopardize the principle of freedom of navigation and the right of innocent passage as prescribed in UNCLOS nor the basic principles of international law and the operation of international commercial shipping.

The 89th session will be held from 25 to 29 October. The revision of the SUA Convention remains a central issue in the agenda. The objective is to have a draft text ready for consideration by a diplomatic conference in 2005.

2003: During its 86th and 87th sessions, the IMO Legal Committee continued to work on proposed amendments to the SUA Convention and its Protocol. The amendments would significantly broaden the range of offences included in the convention and make it more relevant to modern conditions.

2002: During its 85th session the IMO Legal Committee held a preliminary exchange of views regarding the text of draft proposed amendments to the 1988 Convention. Four of these new offenses concerned activities taking place on the ship or directed toward the ship that involve a terrorist purpose. One of the new offenses concerned the presence of tools or substances not usually used on a ship but useful in a weapon of mass destruction. Two of the new offenses concerned use of the ship for transport of substances to be used for mass destruction. Delegations expressed the need to carefully consider the proposals and to consider whether there was overlap with existing terrorism conventions. It was recognized that even with an expanded focus, SUA would remain a maritime convention under the competency of IMO, and it was important to ensure that the shipping industry does not become a soft target for terrorist activities.

2001: In November, the IMO Assembly adopted resolution A.924(22) calling for a review of measures and procedures to prevent acts of terrorism that threaten the security of passengers and crews and the safety of ships. The IMO Legal Committee (which consists of all member states of IMO) is in charge of the revision of the SUA Convention and its Protocol.

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Attachment 4



IMO adopts comprehensive maritime security measures

Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974: 9 - 13 December 2002

[The International Ship and Port Facility Security Code](#)
[The Company and the Ship](#)
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A new, comprehensive security regime for international shipping is set to enter into force in July 2004 following the adoption by a week-long Diplomatic Conference of a series of measures to strengthen maritime security and prevent and suppress acts of terrorism against shipping. The Conference, held at the London headquarters of the International Maritime Organization (IMO) from 9 to 13 December 2002, was of crucial significance not only to the international maritime community but the world community as a whole, given the pivotal role shipping plays in the conduct of world trade. The measures represent the culmination of just over a year's intense work by IMO's Maritime Safety Committee and its Intersessional Working Group since the terrorist atrocities in the United States in September 2001.

The Conference was attended by 108 Contracting Governments to the 1974 SOLAS Convention, observers from two IMO Member States and observers from the two IMO Associate Members. United Nations specialized agencies, intergovernmental organizations and non-governmental international organizations also sent observers to the Conference.

The Conference adopted a number of amendments to the 1974 Safety of Life at Sea Convention (SOLAS), the most far-reaching of which enshrines the new International Ship and Port Facility Security Code (ISPS Code). The Code contains detailed security-related requirements for Governments, port authorities and shipping companies in a mandatory section (Part A), together with a series of guidelines about how to meet these requirements in a second, non-mandatory section (Part B). The Conference also adopted a series of resolutions designed to add weight to the amendments, encourage the application of the measures to ships and port facilities not covered by the Code and pave the way for future work on the subject.

Speaking at the end of the conference, IMO Secretary-General William O'Neil strongly urged all parties concerned to start putting in place all the necessary legislative, administrative and operational provisions needed to give effect to the decisions of the Conference as soon as possible. In a call for continued vigilance, he added, "In the meantime, all involved in the operation of ships and ports should continue to be aware of the potential dangers to shipping through acts of terrorism and the need to be extremely vigilant and alert to any security threat they might encounter in port, at offshore terminals or when underway at sea."

The Conference has been referred to in the United Nations General Assembly. At its current session, the General Assembly adopted a resolution on "Oceans and the law of the sea", which specifically welcomed initiatives at the International Maritime Organization to counter the threat to maritime security from terrorism and encouraged States fully to support this endeavour.

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The International Ship and Port Facility Security Code

In essence, the Code takes the approach that ensuring the security of ships and port facilities is basically a risk management activity and that to determine what security measures are appropriate, an assessment of the risks must be made in each particular case.

The purpose of the Code is to provide a standardized, consistent framework for evaluating risk, enabling governments to offset changes in threat with changes in vulnerability for ships and port facilities.

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To begin the process, each Contracting Government will conduct port facility security assessments. Security assessments will have three essential components. First, they must identify and evaluate important assets and infrastructures that are critical to the port facility as well as those areas or structures that, if damaged, could cause significant loss of life or damage to the port facility's economy or environment. Then, the assessment must identify the actual threats to those critical assets and infrastructure in order to prioritise security measures. Finally, the assessment must address vulnerability of the port facility by identifying its weaknesses in physical security, structural integrity, protection systems, procedural policies, communications systems, transportation infrastructure, utilities, and other areas within a port facility that may be a likely target. Once this assessment has been completed, Contracting Government can accurately evaluate risk.

This risk management concept will be embodied in the Code through a number of minimum functional security requirements for ships and port facilities. For ships, these requirements will include:

- ship security plans
- ship security officers
- company security officers
- certain onboard equipment

For port facilities, the requirements will include:

- port facility security plans
- port facility security officers
- certain security equipment

In addition the requirements for ships and for port facilities include:

- monitoring and controlling access
- monitoring the activities of people and cargo
- ensuring security communications are readily available

Because each ship (or class of ship) and each port facility present different risks, the method in which they will meet the specific requirements of this Code will be determined and eventually be approved by the Administration or Contracting Government, as the case may be.

In order to communicate the threat at a port facility or for a ship, the Contracting Government will set the appropriate security level. Security levels 1, 2, and 3 correspond to normal, medium, and high threat situations, respectively. The security level creates a link between the ship and the port facility, since it triggers the implementation of appropriate security measures for the ship and for the port facility.

The preamble to the Code states that, as threat increases, the only logical counteraction is to reduce vulnerability. The Code provides several ways to reduce vulnerabilities. Ships will be subject to a system of survey, verification, certification, and control to ensure that their security measures are implemented. This system will be based on a considerably expanded control system as stipulated in the 1974 Convention for Safety of Life at Sea (SOLAS). Port facilities will also be required to report certain security related information to the Contracting Government concerned, which in turn will submit a list of approved port facility security plans, including location and contact details to IMO.

The Company and the Ship

Under the terms of the Code, shipping companies will be required to designate a Company Security Officer for the Company and a Ship Security Officer for each of its ships. The Company Security Officer's responsibilities include ensuring that a Ship Security Assessment is properly carried out, that Ship Security Plans are prepared and submitted for approval by (or on behalf of) the Administration and thereafter is placed on board each ship.

The Ship Security Plan should indicate the operational and physical security measures the ship itself should take to ensure it always operates at security level 1. The plan should also indicate the additional, or intensified, security measures the ship itself can take to move to and operate at security level 2 when instructed to do so. Furthermore, the plan should indicate the possible preparatory actions the ship could take to allow prompt response to instructions that may be issued to the ship at security level 3.

Ships will have to carry an International Ship Security Certificate indicating that they comply with the requirements of SOLAS chapter XI-2 and part A of the ISPS Code. When a ship is at a port or is proceeding to a port of Contracting Government, the Contracting Government has the right, under the provisions of regulation XI-2/9, to exercise various control and compliance measures with respect to that ship. The ship is subject to port State control inspections but such inspections

will not normally extend to examination of the Ship Security Plan itself except in specific circumstances.

The ship may, also, be subject to additional control measures if the Contracting Government exercising the control and compliance measures has reason to believe that the security of the ship has, or the port facilities it has served have, been compromised.

The Port Facility

Each Contracting Government has to ensure completion of a Port Facility Security Assessment for each port facility within its territory that serves ships engaged on international voyages. The Port Facility Security Assessment is fundamentally a risk analysis of all aspects of a port facility's operation in order to determine which parts of it are more susceptible, and/or more likely, to be the subject of attack. Security risk is seen a function of the threat of an attack coupled with the vulnerability of the target and the consequences of an attack.

On completion of the analysis, it will be possible to produce an overall assessment of the level of risk. The Port Facility Security Assessment will help determine which port facilities are required to appoint a Port Facility Security Officer and prepare a Port Facility Security Plan. This plan should indicate the operational and physical security measures the port facility should take to ensure that it always operates at security level 1. The plan should also indicate the additional, or intensified, security measures the port facility can take to move to and operate at security level 2 when instructed to do so. It should also indicate the possible preparatory actions the port facility could take to allow prompt response to the instructions that may be issued at security level 3.

Ships using port facilities may be subject to port State control inspections and additional control measures. The relevant authorities may request the provision of information regarding the ship, its cargo, passengers and ship's personnel prior to the ship's entry into port. There may be circumstances in which entry into port could be denied.

Responsibilities of Contracting Governments

Contracting Governments have various responsibilities, including setting the applicable security level, approving the Ship Security Plan and relevant amendments to a previously approved plan, verifying the compliance of ships with the provisions of SOLAS chapter XI-2 and part A of the ISPS Code and issuing the International Ship Security Certificate, determining which port facilities located within their territory are required to designate a Port Facility Security Officer, ensuring completion and approval of the Port Facility Security Assessment and the Port Facility Security Plan and any subsequent amendments; and exercising control and compliance measures. It is also responsible for communicating information to the International Maritime Organization and to the shipping and port industries.

Contracting Governments can designate, or establish, Designated Authorities within Government to undertake their security duties and allow Recognised Security Organisations to carry out certain work with respect to port facilities, but the final decision on the acceptance and approval of this work should be given by the Contracting Government or the Designated Authority.

Amendments to SOLAS

The Conference adopted a series of Amendments to the 1974 SOLAS Convention, aimed at enhancing maritime security on board ships and at ship/port interface areas. Among other things, these amendments create a new SOLAS chapter dealing specifically with maritime security, which in turn contains the mandatory requirement for ships to comply with the ISPS Code.

Modifications to Chapter V (Safety of Navigation) contain a new timetable for the fitting of Automatic Information Systems (AIS). Ships, other than passenger ships and tankers, of 300 gross tonnage and upwards but less than 50,000 gross tonnage, will be required to fit AIS not later than the first safety equipment survey after 1 July 2004 or by 31 December 2004, whichever occurs earlier. Ships fitted with AIS shall maintain AIS in operation at all times except where international agreements, rules or standards provide for the protection of navigational information."

The existing SOLAS Chapter XI (Special measures to enhance maritime safety) has been re-numbered as Chapter XI-1. Regulation XI-1/3 is modified to require ships' identification numbers to be permanently marked in a visible place either on the ship's hull or superstructure. Passenger ships should carry the marking on a horizontal surface visible from the air. Ships should also be marked with their ID numbers internally.

And a new regulation XI-1/5 requires ships to be issued with a Continuous Synopsis Record (CSR) which is intended to provide an on-board record of the history of the ship. The CSR shall be issued by the Administration and shall contain information such as the name of the ship and of the State whose flag the ship is entitled to fly, the date on which the ship was registered with that

State, the ship's identification number, the port at which the ship is registered and the name of the registered owner(s) and their registered address. Any changes shall be recorded in the CSR so as to provide updated and current information together with the history of the changes.

New Chapter XI-2 (Special measures to enhance maritime security)

A brand-new Chapter XI-2 (Special measures to enhance maritime security) is added after the renumbered Chapter XI-1.

This chapter applies to passenger ships and cargo ships of 500 gross tonnage and upwards, including high speed craft, mobile offshore drilling units and port facilities serving such ships engaged on international voyages.

Regulation XI-2/2 of the new chapter enshrines the International Ship and Port Facilities Security Code (ISPS Code). Part A of this Code is mandatory and part B contains guidance as to how best to comply with the mandatory requirements.

The regulation requires Administrations to set security levels and ensure the provision of security level information to ships entitled to fly their flag. Prior to entering a port, or whilst in a port, within the territory of a Contracting Government, a ship shall comply with the requirements for the security level set by that Contracting Government, if that security level is higher than the security level set by the Administration for that ship.

Regulation XI-2/8 confirms the role of the Master in exercising his professional judgement over decisions necessary to maintain the security of the ship. It says he shall not be constrained by the Company, the charterer or any other person in this respect.

Regulation XI-2/6 requires all ships to be provided with a ship security alert system, according to a strict timetable that will see most vessels fitted by 2004 and the remainder by 2006. When activated the ship security alert system shall initiate and transmit a ship-to-shore security alert to a competent authority designated by the Administration, identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised. The system will not raise any alarm on-board the ship. The ship security alert system shall be capable of being activated from the navigation bridge and in at least one other location.

Regulation XI-2/10 covers requirements for port facilities, providing among other things for Contracting Governments to ensure that port facility security assessments are carried out and that port facility security plans are developed, implemented and reviewed in accordance with the ISPS Code.

Other regulations in this chapter cover the provision of information to IMO, the control of ships in port, (including measures such as the delay, detention, restriction of operations including movement within the port, or expulsion of a ship from port), and the s

Resolutions adopted by the conference

The conference adopted 11 resolutions, the main points of which are outlined below. The full text of each is available on request.

Conference resolution 1 (Adoption of amendments to the annex to the international convention for the safety of life at sea, 1974, as amended), determines that the amendments shall be deemed to have been accepted on 1 January 2004 (unless, prior to that date, more than one third of the Contracting Governments to the Convention or Contracting Governments the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments) and that the amendments would then enter into force on 1 July 2004.

Conference resolution 2 (Adoption of the International Ship and Port Facility Security (ISPS) Code) adopts the International Ship and Port Facility Security (ISPS) Code, and invites Contracting Governments to the Convention to note that the ISPS Code will take effect on 1 July 2004 upon entry into force of the new chapter XI-2 of the Convention;

Conference resolution 3 (Further work by the international maritime organization pertaining to the enhancement of maritime security) invites the International Maritime Organization to develop, as a matter of urgency, training guidance such as model courses for ship security officers, company security officers and port facility security officers; performance standards for ship security alarms; performance standards and guidelines for long-range ship identification and tracking systems; guidelines on control of ships; and guidelines on "Recognized security organizations", and to adopt them in time before the entry into force of the amendments

to the Convention adopted by the Conference.

Conference resolution 4 (Future amendments to Chapters XI-1 and XI-2 of the 1974 SOLAS Convention on special measures to enhance maritime safety and security) recommends that future amendments to the provisions of chapters XI-1 and XI-2 of the Convention should be adopted by either the Maritime Safety Committee of the International Maritime Organization or by a Conference of Contracting Governments to the Convention.

Conference resolution 5 (Promotion of technical co-operation and assistance) strongly urges Contracting Governments to the Convention and Member States of the Organization to provide, in co-operation with the Organization, assistance to those States which have difficulty in meeting the requirements of the adopted amendments; and to use the Integrated Technical Co-operation Programme of the Organization as one of the main instruments to obtain assistance in advancing effective implementation of, and compliance with, the adopted amendments.

It also requests the Secretary-General of the Organization to make adequate provision, within the Integrated Technical Co-operation Programme, to strengthen further the assistance that is already being provided and to ensure that the Organization is able to address the future needs of developing countries for continued education and training and the improvement of their maritime and port security infrastructure and measures; and invites donors, international organizations and the shipping and port industry to contribute financial, human and/or in-kind resources to the Integrated Technical Co-operation Programme of the Organization for its maritime and port security activities.

It also invites the Secretary General to give early consideration to establishing a Maritime Security Trust Fund for the purpose of providing a dedicated source of financial support for maritime security technical-co-operation activities and, in particular, for providing support for national initiatives in developing countries to strengthen their maritime security infrastructure and measures.

Conference resolution 6 (Early implementation of the special measures to enhance maritime security) refers to the difficulties experienced during implementation of the International Safety Management (ISM) Code and draws the attention of Contracting Governments and the industry to the fact that chapter XI-2 of the Convention does not provide for any extension of the implementation dates for the introduction of the special measures concerned to enhance maritime security. It urges Contracting Governments to take, as a matter of high priority, any action needed to finalize as soon as possible any legislative or administrative arrangements, which are required at the national level, to give effect to the requirements of the adopted amendments to the Convention relating to the certification of ships entitled to fly their flag or port facilities situated in their territory. It also recommends that Contracting Governments and Administrations concerned designate dates, in advance of the application date of 1 July 2004 by which requests for certification should be submitted in order to allow for completion of the certification process and for companies and port facilities to rectify any non-compliance. It also recommends that Contracting Governments and the industry should take early appropriate action to ensure that all necessary infrastructure is in place in time for the effective implementation of the adopted measures to enhance maritime security on board ships and ashore.

Conference resolution 7 (Establishment of appropriate measures to enhance the security of ships, port facilities, mobile offshore drilling units on location and fixed and floating platforms not covered by chapter XI-2 of the 1974 SOLAS Convention) invites Contracting Governments to establish, as they might consider necessary, appropriate measures to enhance the security of ships and of port facilities other than those covered by chapter XI-2 of the Convention; it also encourages Contracting Governments to establish and disseminate, in an appropriate manner, information to facilitate contact and liaison between company and ship security officers and the authorities responsible for the security of port facilities not covered by Chapter XI-2, prior to a ship entering, or anchoring off, such a port;

Conference resolution 8 (Enhancement of security in co-operation with the International Labour Organization) invites the ILO to continue the development of a Seafarers' Identity Document as a matter of urgency, which should cover, among other things, a document for professional purposes; a verifiable security document; and a certification information document, and invites IMO and the ILO to establish a joint ILO/IMO Working Group to undertake more detailed work on comprehensive port security requirements.

Conference resolution 9 (Enhancement of security in co-operation with the World Customs Organization) invites the WCO to consider urgently measures to enhance security throughout international closed CTU movements and requests the Secretary-General of IMO to contribute expertise relating to maritime traffic to the discussions at the WCO.

Conference resolution 10 (Early implementation of long-range ships' identification and tracking) recalls that long-range identification and tracking of ships at sea is a measure that fully contributes to the enhancement of the maritime and coastal States security and notes that Inmarsat C polling is currently an appropriate system for long-range identification and tracking of ships. It urges Governments to take, as a matter of high priority, any action needed at national level to give effect to implementing and beginning the long-range identification and tracking of ships and invites Contracting Governments to encourage ships entitled to fly the flag of their State to take the necessary measures so that they are prepared to respond automatically to Inmarsat C polling, or to other available systems. It also requests Governments to consider all aspects related to the introduction of long-range identification and tracking of ships, including its potential for misuse as an aid to ship targeting and the need for confidentiality in respect of the information so gathered.

Conference resolution 11 (Human element-related aspects and shore leave for seafarers) urges Governments to take the human element, the need to afford special protection to seafarers and the critical importance of shore leave into account when implementing the provisions of chapter XI-2 of the Convention and the International Ship and Port Facility (ISPS) Code. It also encourages Governments, Member States of IMO and non-governmental organizations with consultative status at the Organization to report to the Organization any instances where the human element has been adversely impacted by the implementation of the provisions of chapter XI-2 of the Convention or the Code. It also requests the IMO Secretary-General to bring to the attention of the Maritime Safety Committee and the Facilitation Committee of the Organization, any human element related problems, which have been communicated to the Organization as a result of the implementation of chapter XI-2 of the Convention or the Code.

Officers of the Conference

The Conference elected Mr. J. Franson, Head of the delegation of Sweden, President of the Conference.

The following were elected Vice-Presidents of the Conference:

Mr. William J. S. Elliott (Canada)
Mr. Mitsuo Nakamoto (Japan)
H.E. Alma-Rosa Moreno Razo (Mexico)
Professor Marek Szymonski (Poland)
H.E. El Hadj Amadou Niang (Senegal)

The following were also elected:

Committee of the Whole:

Chairman: Mr. J.F. Wall (United Kingdom)
Vice-Chairman: Mr. D. Baird (Australia)
Vice-Chairman: Dr. S. Ilgin (Turkey)

Drafting Committee

Chairman: Mr. N. Charalambous (Cyprus)
Vice-Chairman: Admiral E. Schroth (Peru)
Vice-Chairman: Mr. I. Ponomarev (Russian Federation)

Credentials Committee

Chairman: Mr. Z. Alam (Singapore)

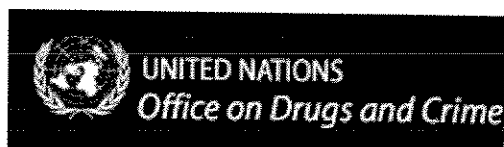
IMO - the International Maritime Organization - is the United Nations Specialized Agency with responsibility for the safety of shipping and the prevention of marine pollution by ships.
Web site: www.imo.org

For further information please contact:

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Attachment 5

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Tuesday, 6 December 2005

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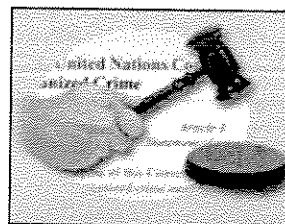
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The United Nations Convention against Transnational Organized Crime and its Protocols

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[Address by Ambassador Luigi Lauriola](#), Chairman of the Ad Hoc Committee on The Elaboration of a Convention Against Transnational Organized Crime at The Millenium Assembly of the United Nations General Assembly, New York, November 2000

The Convention represents a major step forward in the fight against transnational organized crime and signifies the recognition of UN Member States that this is a serious and growing problem that can only be solved through close international cooperation. The



Convention, concluded at the 10th session of the Ad Hoc Committee established by the General Assembly to deal with this problem, is a legally binding instrument committing States that ratify it to taking a series of measures against transnational organized crime. These include the creation of domestic criminal offences to combat the problem, and the adoption of new, sweeping frameworks for mutual legal assistance, extradition, law-enforcement cooperation and technical assistance and training.

States Parties will be able to rely on one another in investigating, prosecuting and punishing crimes committed by organized criminal groups where either the crimes or the groups who commit them have some element of transnational involvement. This should make it much more difficult for offenders and organized criminal groups to take advantage of gaps in national law, jurisdictional problems or a lack of accurate information about the full scope of their activities.

The Convention deals with the fight against organized crime in general and some of the major activities in which transnational organized crime is commonly involved, such as money laundering, corruption and the obstruction of investigations or prosecutions. To supplement the Convention, two Protocols also tackle specific areas of transnational organized crime that are of particular concern to UN Member States.

The Protocol against the Smuggling of Migrants deals with the growing problem of organized criminal groups who smuggle migrants, often at high

New!

The [Legislative guides](#) for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto are now available online in all official languages.



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risk to the migrants and at great profit for the offenders. The Protocol against Trafficking in Persons deals with the problem of modern slavery, in which the desire of people to seek a better life is taken advantage of by organized criminal groups. Migrants are often confined or coerced into exploitive or oppressive forms of employment, often in the sex trade or in dangerous occupations, with the illicit incomes generated from these activities going to organized crime.

The Protocols also commit countries which ratify them to making the basic subject of the Protocol a criminal offence and to adopting other specific measures, such as controls on travel documents, to combat the problem. These supplement the more general measures found in the Convention, and countries must become parties to the Convention itself before they can become parties to any of the Protocols. A third Protocol, dealing with the illicit manufacturing of and trafficking in firearms, parts and components, and ammunition, remains under discussion.

The texts of these documents were developed over 11 sessions of the Ad Hoc Committee, and footnoted texts may be found under each session. The Convention was finalized at the 10th session, and the complete text forms part of the Report of that session. The Protocols dealing with the smuggling of migrants and trafficking in persons were finalized at the 11th session and are reported there. These three instruments were adopted by the UN Millenium General Assembly on 15 November 2000, and final texts are included in the Report of that session.

Instruments

Finalized instruments:

United Nations Convention against Transnational Organized Crime and following protocols:

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime

(PDF) [English](#), [French](#), [Spanish](#), [Russian](#), [Arabic](#), [Chinese](#)

Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

(PDF) [English](#), [French](#), [Spanish](#), [Russian](#), [Arabic](#), [Chinese](#)

Signatures

Background information

By resolution 53/111, of 9 December 1998, the General Assembly established an Ad Hoc Committee open to all States, for the purpose of elaborating the international convention against transnational organized crime and three additional international legal protocols. The first session of the Ad Hoc Committee took place in Vienna, Austria, from 19-29 January 1999.

- First session (Vienna, January 1999)
- Second session (Vienna, March 1999)
- Third session (Vienna, April 1999)
- Fourth session (Vienna, June 28 - July 9 1999)
- Fifth session (Vienna, October 4 - 15 1999)
- Sixth session (Vienna, December 6 -17 1999)
- Seventh session (Vienna, January 17 - 28 2000)
- Eighth session (Vienna, February 21 - March 3 2000)
- Ninth session (Vienna, June 5 - 16 2000)
- Tenth session (Vienna, July 17-28 2000)
- Eleventh session (Vienna, October 2-27 2000)
- General Assembly documents (A/55/383 & Add.1, Add.2, Add.3))
- Signing Conference for the Convention (Palermo, December 12-15 2000)
- Twelfth session (Vienna, February 26 - March 2 2001)
- 13th Session of the Ad Hoc Committee to prepare the draft text of the Rules of Procedure of the Conference of the Parties of the United Nations Convention against Transnational Organized Crime (Vienna, 26 January - 6 February 2004)

Conference of the Parties to the United Nations Convention against Transnational Organized Crime and its Protocols - (CTOC/COP)

By its resolution 55/25 of 15 November 2000, the General Assembly adopted the United Nations Convention against Transnational Organized Crime.

In accordance with Article 38, Annex I of the aforementioned resolution, the United Nations Convention against Transnational Organized Crime entered into force on 29 September 2003.

Pursuant to article 32 of the Convention, a Conference of the Parties to the Convention is hereby established to improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of this Convention. Article 32 also states that the Secretary-General of the United Nations shall convene the Conference of the Parties not later than one year following the entry into force of this Convention. The Conference of the Parties shall adopt rules of procedure and rules governing the activities set forth in paragraphs 3 and 4 of this article (including rules concerning payment of expenses incurred in carrying out those activities).

Meetings of the Conference of the Parties

CTOC/COP 2 - Second session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and its Protocols (Vienna, 10-21 October 2005)

Documents - Decisions

CTOC/COP 1 - First session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and its Protocols (Vienna, 28 June - 9 July 2004)

Documents - Decisions

Attachment 6

United States Codes Relating to International Maritime Security

18 USC 2280 (violence against maritime navigation)

First part: offences against maritime navigation shall be punished by death or imprisoned for any term of years or for life. (Offenses)

Second part: Definition of the area in which there is jurisdiction over the activity prohibited in the first part. (Jurisdiction)

Third part: It is a bar to Federal prosecution under the first subsection for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. (Bar To Prosecution)

Fourth part: Procedure of how the master of a covered ship flying the flag of the United States can deal with any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. The same procedure maintains, if the master has reasonable grounds to believe that a person committed an offense. (Delivery of Suspected Offender)

Fifth part: Definitions of “covered ship”, “national of the United States”, “territorial sea of the United States”, “ship”, “United States”. (Definitions)

18 USC 1651 (piracy under law of nations)

Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life.

18 USC 2232 (Destruction or removal of property to prevent seizure)

Definition and penalty of

- a) destruction or removal of property to prevent seizure
- b) impairment of in rem jurisdiction
- c) Notice of search or execution of seizure warrant or warrant of arrest in rem.
- d) Notice of certain electronic surveillance
- e) Foreign intelligence surveillance.

18 USC 113 (Assaults within maritime and territorial jurisdiction)

Types of punishments and penalty for persons, who, within the special maritime and territorial jurisdiction of the United States, are guilty of an assault.

(a) Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

(1) Assault with intent to commit murder, by imprisonment for not more than twenty years.

(2) Assault with intent to commit any felony, except murder or a felony under chapter 109A, by a fine under this title or imprisonment for not more than ten years, or both.

(3) Assault with a dangerous weapon, with intent to do bodily harm, and without just cause or excuse, by a fine under this title or imprisonment for not more than ten years, or both.

(4) Assault by striking, beating, or wounding, by a fine under this title or imprisonment for not more than six months, or both.

(5) Simple assault, by a fine under this title or imprisonment for not more than six months, or both, or if the victim of the assault is an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 1 year, or both.

(6) Assault resulting in serious bodily injury, by a fine under this title or imprisonment for not more than ten years, or both.

(7) Assault resulting in substantial bodily injury to an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 5 years, or both.

(b) As used in this subsection—

(1) the term “substantial bodily injury” means bodily injury which involves—

(A) a temporary but substantial disfigurement; or

(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty; and

(2) the term “serious bodily injury” has the meaning given that term in section 1365 of this title.

18 USC 844 (Penalties)

(a) Any person who—

(1) violates any of subsections (a) through (i) or (l) through (o) of section 842 shall be fined under this title, imprisoned for not more than 10 years, or both; and

(2) violates subsection (p)(2) of section 842, shall be fined under this title, imprisoned not more than 20 years, or both.

(b) Any person who violates any other provision of section 842 of this chapter shall be fined under this title or imprisoned not more than one year, or both.

(1) Any explosive materials involved or used or intended to be used in any violation of the provisions of this chapter or any other rule or regulation promulgated thereunder or any violation of any criminal law of the United States shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness.

The seizing officer shall make a report of the seizure and take samples as the Attorney General may by regulation prescribe.

(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of (including any person having an interest in) the property so destroyed may make application to the Attorney General for reimbursement of the value of the property.

If the claimant establishes to the satisfaction of the Attorney General that—

(A) the property has not been used or involved in a violation of law; or

(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Attorney General shall make an allowance to the claimant not exceeding the value of the property destroyed.

(d) Whoever transports or receives, or attempts to transport or receive, in interstate or foreign commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years, or fined under this title, or both; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not more than twenty years or fined under this title, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(e) Whoever, through the use of the mail, telephone, telegraph, or other instrument of interstate or foreign commerce, or in or affecting interstate or foreign commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of fire or an explosive shall be imprisoned for not more than 10 years or fined under this title, or both.

(f)

(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance, shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.

(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both.

(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life, fined under this title, or both.

(g)

(1) Except as provided in paragraph (2), whoever possesses an explosive in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department, or other person responsible for the management of such building or airport, shall be imprisoned for not more than five years, or fined under this title, or both.

(2) The provisions of this subsection shall not be applicable to—

(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Research and Special Projects Administration for the handling of hazardous materials pursuant to chapter 51 of title 49.

(h) Whoever—

(1) uses fire or an explosive to commit any felony which may be prosecuted in a court of the United States, or

(2) carries an explosive during the commission of any felony which may be prosecuted in a court of the United States,

including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for 10 years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.

(i) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(j) For the purposes of subsections (d), (e), (f), (g), (h), and (i) of this section and section 842 (p), the term “explosive” means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechanical mixture, or

device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.

(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be fined under this title, imprisoned not more than 10 years, or both.

(m) A person who conspires to commit an offense under subsection (h) shall be imprisoned for any term of years not exceeding 20, fined under this title, or both.

(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense the commission of which was the object of the conspiracy.

(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924 (c)(3)) or drug trafficking crime (as defined in section 924 (c)(2)) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of an explosive material.

(p) Theft Reporting Requirement.—

(1) In general.— A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Secretary ^[1] not later than 24 hours after the discovery of the theft.

(2) Penalty.— A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than \$10,000, imprisoned not more than 5 years, or both.

18 USC 7 (Special maritime and territorial jurisdiction of the United States defined)

The wide reach, in which the term “special maritime and territorial jurisdiction of the United States”, is used.

18 USC 2111 (Special maritime and territorial jurisdiction)

Whoever, within the special maritime and territorial jurisdiction of the United States, by force and violence, or by intimidation, takes or attempts to take from the person or presence of another anything of value, shall be imprisoned not more than fifteen years.

18 USC 1659 (Attack to plunder vessel)

Whoever, upon the high seas or other waters within the admiralty and maritime jurisdiction of the United States, by surprise or open force, maliciously attacks or sets upon any vessel belonging to another, with an intent unlawfully to plunder the same, or to despoil any owner thereof of any moneys, goods, or merchandise laden on board thereof, shall be fined under this title or imprisoned not more than ten years, or both.

Attachment 7

TRAVEL WEEKLY

THE NATIONAL NEWSPAPER OF THE TRAVEL INDUSTRY

CRUISE

Passenger disappearance leads to scrutiny in cruise industry (02/21/2006)

By Dan Luzadder

At every turn in the past two months, Royal Caribbean International has found itself fighting round after round of accusations and aggressive press coverage about disappearing passengers and shipboard crime. And if lawyers and lawmakers have their way, public attention to those issues is likely to increase in the coming months.

Appearing on national television, Richard Fain, Royal Caribbean's CEO, has disputed accusations that the company was insensitive and negligent in its actions following the suspicious disappearance last summer of Connecticut honeymooner George Smith.

Fain's appearance was preceded and followed in other venues by the company's lawyers, public affairs executives, the head of fleet operations and the captain of the ship from which Smith disappeared.

Much of the recent media coverage was fueled by a congressional hearing in December into questions about shipboard safety and industry practices stemming from the Smith disappearance. The issue is expected to be revived in early March, when more family members of missing cruise passengers are expected to testify in a second series of congressional inquiries that will embrace wider issues of maritime law, jurisdictional conflicts and regulation of cruise lines.

Cruise industry officials say they are confident about their safety practices, reporting procedures and treatment of customers. But sources within the industry also say that when the smoke clears, the U.S. mass market cruise industry, which has seen substantial growth over the past decade, could end up facing tighter regulatory scrutiny and increased consumer liability.

Although high-profile disappearances such as the cases involving Smith and, later, Merriam Carver, a passenger who went missing from a Royal Caribbean cruise in Alaska, have been painful to the industry, cruise sales have so far shown no signs of withering under bad publicity.

In fact, the cruise industry has used the opportunity to reinforce its claim -- supported by FBI and Coast Guard data -- that cruising is among the safest of travel options. Of the tens of millions of Americans who took cruises in the past five years, only 13 have been lost.

Still, the growing tide of negative publicity is creating potential political problems for the industry as it is forced to answer questions about how cruise ships that dock in U.S. ports are regulated, and

by whom.

The cruise industry has a great deal at stake in the growing debate, according to Thomas Dickerson, a New York State Supreme Court justice and author of *Travel Law*, a widely cited guide to legal issues related to travel. Dickerson said cruise lines have long benefited from treaties and laws that limit their liability to passengers or families who seek compensation for accidents, crimes or other incidents at sea.

"Maritime law protects cruise lines; it does not protect consumers," said Dickerson, a former trial lawyer. "The bottom line is that maritime law is pro-cruise line, and that comes out in a lot of different ways."

Regulation of cruise operations in the U.S. is governed primarily by complex maritime laws, though there are some other agencies -- most recently, the Department of Homeland Security -- that also affect operators. The Centers for Disease Control and Prevention, for example, requires reporting of health issues and compiles statistics and sanitation ratings on cruise lines. Reports of accidents on the high seas are required by the U.S. Coast Guard for all commercial shipping, and security regulations enacted after 9/11 have increased requirements on reporting passenger and crew identifications at U.S. ports.

Moreover, cruise executives have testified that they meticulously report all criminal incidents at sea to the FBI and to appropriate law enforcement agencies in the country under whose jurisdiction they sail. The incidents they report range from disappearances to allegations of rape,



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robbery, drug
trafficking, assault and
murder.

But some federal
lawmakers have
expressed skepticism
about whether all this reporting, both
voluntary and mandated, add up to an
accurate picture. They are also asking if
Congress needs to revisit jurisdictional
treaties and traditions that currently leave
U.S. citizens subject to foreign laws in
disputes or incidents.

Michael Crye, president of the
International Council of Cruise Lines,
which represents most of the major
players in the cruise industry, said he
hopes congressional inquiries will pursue
the truth as opposed to the perceptions
created by media attention.

“I believe that there is a very complex,
overarching regulation of the cruise ship
industry today, dependent upon the
jurisdiction where the ships are located,”
Crye said. “I believe that people who go
on cruises are very safe, and I believe that
any objective look at the record of the
cruise industry will come to the same
conclusions.”

Crye added: “Perceived ideas that the
cruise industry is loosely regulated and
that [lawmakers] need to do something
about it” would not survive an “objective
look at the cruise industry today.”

A web of laws

Cruise ships typically operate under flags
of jurisdictions that range from the
Bahamas to countries in Africa and other
destinations around the world. It is a
practice that can routinely put the cruise

operator, and anyone alleging crimes or negligence, under the laws of either the nation whose flag they fly or the country where the company maintains its incorporation.

In addition, the criminal and civil laws of countries being visited may also apply, creating a complicated jurisdictional maze for passengers in need of any kind of legal protections. That situation is prompting lawmakers to take a closer look at what laws apply when something bad happens to a U.S. passenger on a cruise.

Congressional investigators now say they are looking for a more accurate and complete picture of how often allegations of criminal acts (sexual assault ranks highest on the list of reported crimes) disappearances or injuries occur aboard cruise ships.

Clearly, not all of the debate is likely to be reasoned and rational. Emotional issues raised by Smith's disappearance plus other cases that are expected to come up in the congressional hearings could drive legislation seeking tighter controls on cruise lines -- something the industry wants to avoid.

Industry leaders and experts in maritime law say that similar consumer-protection issues involving cruise lines have surfaced hundreds of times in state court proceedings in the past 10 years, but without the emotionally charged national spotlight fueled by the Smith disappearance.

But while passengers have sued cruise lines in U.S. courts for incidents ranging from assault to disappearances to spider bites, plaintiffs' lawyers complain that

their clients' rights have been narrowly limited. Foreign and U.S. maritime laws, these lawyers say, typically protect cruise lines more than they protect passengers.

U.S. Reps. Christopher Shays (R-Conn.) and Mark Souder (R-Ind.), who called the initial hearing in December in response to the Smith case, said they remain concerned about how cruise lines deal with passenger safety and security.

"When something like this occurs," Shays said, "you begin asking who owns the cruise line? Where are they based? Where are they coming from? Where are they flagged? Where are the employees coming from?"

"Those are all issues we have never really addressed in Congress. We have looked at environmental issues, but not taken a good look at security. Someone has to take the lead here, because a lot of Americans travel on cruise ships."

In public comments and testimony, cruise line officials say Congress should be pleased with the industry's safety record. But Shays, who became involved because George Smith's family is a constituent, said he needs more information before deciding whether to examine cruise line regulation and jurisdictional questions more closely.

Lawyers who practice maritime law say that cruise passengers are routinely required to sign liability waivers that restrict their right to sue cruise lines for negligence or injury. The waivers, these lawyers say, are presented to passengers in the form of tiny print on the backs of tickets, similar to the legal disclaimers on the backs of some airline tickets, and typically limit damage claims against

cruise lines to economic loss.

Crimes, accidents reported differently

Nancy Nelson, a Jacksonville, Fla., travel agent, is among former passengers demanding more openness and accountability on the part of cruise lines. Nelson says Royal Caribbean was uncooperative when she tried to find out what happened to her husband on a diving excursion in 2001.

Nelson, who once specialized in cruise sales, had won a free trip aboard a Royal Caribbean ship to the Bahamas in a sales promotion. She and Bob Nelson, her husband of 32 years, sailed in November 2001. While she was shopping in Nassau, Bob failed to surface on a dive excursion. No one ever saw him again.

In her lawsuit against the cruise line, Nelson alleges that her husband was an experienced diver and that he was abandoned under water by a dive master during an excursion that went wrong. When the dive was aborted because of difficult seas, other divers were recovered, the suit alleges, but Nelson was left behind when the dive boat left the area, and no head count was taken.

The suit asserts that the same incident was also a near disaster for others who had trouble getting back to the dive boat in rough seas. Nelson's lawsuit, filed by Miami lawyer Greg Anderson, who usually defends cruise lines in liability claims, also alleges that rescue efforts were negligible.

Anderson said he took Nancy Nelson's case because he felt she had been mistreated by Royal Caribbean after it resisted her efforts to get information and

help related to her husband's disappearance. Anderson said he thought the case offered a potential test of maritime law, which he says severely restricts passengers from holding cruise lines responsible for accidents, crimes and disappearances.

Although Royal Caribbean's policy is to report all disappearances to the FBI, the company did not report Nelson's disappearance. Michael Sheehan, a spokesman for Royal Caribbean, said that was because the case was treated as an accidental drowning rather than an unexplained disappearance, and thus the cruise line reported it to the Coast Guard for the purposes of a belated rescue attempt.

Sheehan said Bob Nelson "was not actually a missing person. We knew he had been the victim of a tragic accident, so there was no question of whether a crime had been committed." Under such circumstances, he said, an FBI report would have been unwarranted.

Presumed accidental drownings aside, Captain Bill Wright, who heads up Royal Caribbean's fleet operations, and Greg Purdy, the line's security director, both said it is the company's policy to report missing passengers to law enforcement.

"For persons overboard," Purdy said, "maritime responsibilities for reporting are done by maritime casualty reports, and a portion of that form asks that you characterize the nature of the incident. And if that person overboard is a U.S. citizen, it is also reported to the FBI."

Wright agreed.

"If it is a U.S. citizen who is missing and

off the ship, who presumably fell overboard, we would inform the FBI," he said.

Wright and Purdy said cruise lines are held to strict standards that don't exist for other parts of the travel industry, such as hotels, resorts or even airlines. Purdy noted that cruise lines also verify the identity of every passenger and provide government officials with manifests and photos of everyone on board, including crew members.

A \$75,000 settlement

Diligent reporting of incidents, Royal Caribbean officials said, reflects an industrywide commitment to passenger safety and security and makes reporting of incidents a logical extension of companies' public safety concerns.

In the Nelson case, the trial court eventually ruled in favor of Royal Caribbean, upholding the cruise line's liability waivers. Rather than prolong the case through an appeal, the company settled for \$75,000, Anderson said. He complained Royal Caribbean dragged the case out by failing to provide reports about Bob Nelson's disappearance, resulting in two years of litigation and discovery.

"It's still hard to talk about this after all I have been through," Nancy Nelson said. "But I want to talk to anyone who wants to listen at this point, because people need to know what happened to me and what can happen to them."

Without the reports from Royal Caribbean, she said, "I couldn't even get access to his death benefits for three years. It's been a horrible and frustrating

experience.”

Sheehan declined to comment on Nelson’s allegations involving delayed reports.

Anderson offers the case as evidence that maritime law must be changed.

“It’s a scandal, really” he said. “No rational human being with any sense of compassion could look at the Death on High Seas Act and general maritime law as it applies to passengers and say that significant changes do not need to be made.”

Anderson said he hopes further congressional hearings will raise some difficult questions for cruise lines.

“These maritime laws come from a time when America was trying to promote shipping and compete with the British and the Dutch,” Anderson said. “Most of the statutes date to 100 years ago [and were] never designed for an age of modern cruise ships with multiport agendas, carrying thousands of people on purely pleasure trips.”

The good news for plaintiffs’ lawyers -- and the bad news for cruise lines -- he said, is that “the federal courts understand the problems and have carved out exceptions where they can.”

Among those exceptions is the recent U.S. Supreme Court ruling requiring cruise ships docking in U.S. ports to abide by the Americans With Disabilities Act. And lower courts in Florida recently ruled that cruise lines can be held liable for claims related to sexual assault of passengers by crew members, a decision that is forcing closer background checks

for workers.

Anderson said that in each case, “the cruise companies very aggressively ... are protecting the law that protects them, and that leaves consumers with little recourse.”

“People who are getting killed, injured, raped, you name it, are your average vacationer, and it usually only happens to one or maybe two at a time,” Anderson said. “They are not mass disasters, and so far no senator’s daughter has been raped ... and no large political contributor has been killed on a cruise ship. Until that happens, Congress probably will not act to protect passengers.”

Sheehan refused to discuss recent rulings or settlements, and Fain declined to be interviewed for this article. But the ICCL’s view of the maritime laws in question is that they have lasted in some cases for centuries not because of lobbying or other political pressures but because they work.

“Maritime law is the original international law, and it has built up over 200 years,” said the ICCL’s Crye.

“Some things may be antiquated, and some things get added all the time. Because it is international law, it may be more conservative in some respects than some of the recent statutes in this country, but nothing is there specifically for the cruise ship industry.”

Moreover, he said, the cruise lines’ liability is determined not just by maritime laws but more frequently by simple contract law.

“Just as with an airline, or bus line, there

is a contract for carriage, and it stipulates that you may be sued,” Crye said. “And the same is true for the cruise industry. You can’t read the print on airline tickets, but it is there.”

Dickerson, who compiled a report for the New York Bar Association in 2004 listing litigation brought against the cruise industry under maritime law, concludes that passengers should make sure they read the fine print.

Tougher standards considered

Shays remains skeptical about assurances that cruise lines report all crimes against U.S. citizens to the FBI, to other jurisdictions and to all appropriate agencies. He said he wants more information before determining if additional hearings by his House Subcommittee on National Security, Emerging Threats and International Relations are warranted and whether more cruise oversight is needed generally.

“One of the issues I want to understand is how good a security system do companies have on these ships,” Shays said. “Some of these ships have 2,000 to 3,000 people onboard, and I think it is important to know what qualifications their security folks have. Do they know how to investigate, interrogate and protect the crime scene? I think we are going to invite the cruise lines to come back and talk to us about that.”

Where the investigation might ultimately lead remains to be seen, Shays said.

“It may be government action is needed; it may involve treaties, multilateral or bilateral. It may be just getting the

industry to toughen standards a bit and have some uniformity," he said.

Industry officials broadly dispute suspicions that incidents of potential embarrassment to cruise lines are under-reported.

"The U.S. Coast Guard did a comprehensive safety review of cruise lines in 1995, some 500 pages of analysis, and their opinion was that the cruise industry is among the safest forms of transportation you will find anywhere," said Crye.

In addition, Crye said, cruise lines have been not only accurate but diligent about reporting incidents, accidents and criminal allegations, and that data captured by the FBI, which opened 305 cases involving all commercial shipping in the past five years, show relatively few incidents directly related to ships carrying passengers.

"The cases they have opened in the past five years are a pretty good record of what has occurred," Crye said. "But even if there was a serious crime involving a U.S. citizen that occurred on board a cruise ship and was not reported to FBI by the cruise industry, it would be reported by someone else, you can be sure."

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Attachment 8

How Safe are We at Sea?

by Tim Rubacky, Consumer Affairs Correspondent

And although the world changed dramatically on September 11, one thing that has not been required to change as much as other aspects of travel is cruise ship security. That's because cruise ships have, for the most part, always adhered to very strict security guidelines and practices. While the cruise lines and governments around the world have tightened and refined security after the recent turn of events, cruise ships have always been relatively secure.

As an avid and frequent cruiser, I decided to explore the subject. I talked to a number of people in the cruise industry and some in the U.S. government. Some things you'll find surprising, others you will not. If you're looking for real in-depth information about precautions, policies and tactics, please look elsewhere. It wouldn't be proper to discuss or divulge any information that is considered sensitive.

Immediately after the terrorist attacks of September 11, cruise lines implemented what they call "Level 3" security measures, as outlined by the U.S. Coast Guard's "Security for Passenger Vessels and Passenger Terminals" regulations. These measures include:

- Screening of all passenger baggage, carry-on luggage, ship stores and cargo; intensified screening of passenger lists and passenger identification; close coordination with the U.S. Immigration and Naturalization Service and other federal agencies to ensure that any passengers or crew suspected of being on the INS "Prevent Departure" list are promptly reported to the federal authorities.
- Restricting access to any sensitive vessel areas, such as the bridge and the engine room.
- Implementing onboard security measures to deter unauthorized entry and illegal activity.
- Requiring all commercial vessels to give 96 hours notice before entering U.S. ports. Previously, ships had to give 24 hours' notice.

- Maintaining a 100-yard security zone around cruise ships.

Let's look at some of the basic fundamentals of cruise ship security.

Controlled Access

One thing that contributes to the security of cruise ships is that it's relatively easy for them to move about and alter ports of call if any are deemed unsafe. Cruise ships are also relatively easy to "contain"--that is, it's easy to control and limit access to the ships. When a ship is in port, passengers and crew can only enter through one or two controlled access points, where ship's security personnel can check IDs, manifests and such. Because access to the terminals and docking areas is limited as well, it's relatively tough to get onboard if you don't belong there.

Anti-Terrorism Measures

The greatest threat to passengers and the ships themselves is terrorism. Consequently, the cruise lines are taking preventive measures like security checks of all passengers, carry-on parcels and checked baggage. Unlike the airlines, which only x-ray 10 to 20 percent of all checked baggage, cruise lines have the time to thoroughly x-ray every bag that goes into the ship. All passengers and crew are now required to pass through metal detectors before boarding. The crew and port officials also examine every shipment of supplies that is brought aboard. When ships are in port, watches are posted on deck, and at night, the decks are lit and ropes are let in.

The ships are also keeping records of who is aboard and not aboard at any given time, and most major lines now have automated systems that enable security personnel to see exactly who is on the ship at any given moment, at the touch of a button. Recently, when the Golden Princess departed the Azores for Fort Lauderdale, it happened that two passengers had suddenly disembarked the vessel without notice. At that point, the ship abruptly reversed course heading back for the Azores and the entire ship was searched from stem to stern. Eventually the staff realized that there was no threat and all was well.

Trained Security

Security onboard varies from line to line and ship to ship. Some cruise lines hire former military and naval personnel to implement and oversee their security, while others hire private security firms or former law enforcement officers. In the past, most security measures were intended to deal with passenger disturbances, but the focus now is on maintaining a safe and secure environment, eliminating or

minimizing the threat of harm to passengers, crew and ship. Some lines even have dedicated security personnel whose primary job is to assess the risk potential and work with onboard crew to make sure all the proper procedures are taken. Each port is reviewed for its history of security-related incidents, stowaway threat, contraband threat, shore-side security operations and equipment, and so on. Ship staffers are trained to recognize and deal with things like a crew member being in an unauthorized area, an unfamiliar face in a crew area, a passenger in an off-limits area, or a bag being found somewhere it

Some lines carry security to extremes: Princess Cruises uses Gurkhas, the famed and extremely fierce Nepalese fighters of the British Army, for its fleetwide security force. They have been in place for some time; at last report, there were at least six on both Grand Princess and Golden Princess.

Passengers often ask if there are armed security personnel aboard. For obvious reasons, I can't answer that--but no one really wants to find out, do they?

Big Brother is Watching

Did you realize there are surveillance cameras all around you onboard ship? Security personnel, officers, staff and crew can visually monitor virtually every area of the ship. There are cameras in the embarkation areas; corridors; public rooms; entry points to the "out of bounds" areas for passengers such as crew areas; machinery spaces; and even common deck areas such as the promenade and pool areas.

Port Security Abroad

Don't assume that foreign ports are any less secure, or security conscious, than North American ports. England, for instance, has laws that oblige the terminal owner/operator to take specific actions and provide certain equipment and procedures, and require the ship owner to take specific measures as well. As one cruise ship captain with a great deal of security experience told me, "European ports have always struck me as being more security conscious in general. When sailing from countries that have had previous land-based terrorist activities, there has been more active screening processes, identification checks, and a higher general awareness of port security. The general level of security in the European ports, both on the northern coast and on the Mediterranean coasts, has been fairly consistent. Most European countries have, unfortunately, been touched by terrorism. England has dealt with the IRA, Spain with the ETA and Germany, Greece, and others have all dealt with various threats."

What to Expect Now

Since September 11th, much stricter security measures have been in place to protect ships and their passengers.

Every U.S. port now maintains and enforces a minimum 300-foot "no float zone," a security perimeter that prohibits private craft from coming near cruise ships. In addition, cruise ships are getting an armed U.S. Coast Guard escort in and out of port.

There is also stricter access control to ports and terminals: Passengers are now required to show their tickets to enter both the port area and the terminal.

Look for multiple security checkpoints: You can expect to pass through three or four security checkpoints before being granted access to your cruise ship.

Cruise lines are working with local, state, federal and international authorities such as the port authorities where ships call, the U.S. Coast Guard, the U.S. Immigration and Naturalization Service, the U.S. Customs Service, the Federal Bureau of Investigation, and Interpol. This will enhance the safety and security of everyone onboard cruise ships.

Embarkation and debarkation may take longer to accommodate additional security procedures, so plan your flights accordingly. Expect strict enforcement of required ID and nationality/travel papers. Boarding will be denied if you don't have the proper documents. Don't expect to catch that early morning flight home.

Passengers and lines have been reporting delays in disembarking passengers. In most cases, don't expect to be ashore before 9-10 a.m.

Have patience. You may encounter some long lines as you wait to embark or disembark. Everyone is in the same boat, so keep your sense of humor and remember, it's for your own safety!

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